

**BEFORE THE DEPARTMENT OF PERSONNEL ADMINISTRATION
OF THE STATE OF CALIFORNIA**

In the Matter of the Appeal by

SPB Case No. 96-2213


Psychiatric Technician
854 E. Mountain View
Glendora, CA
From Automatic Resignation (AWOL)

Represented by:
California Association of Psychiatric
Technicians
2000 O Street, Suite 250
Sacramento, CA 95814

Respondent:
Department of Developmental Services
Personnel Officer
1600 9th Street
Sacramento, CA 95814

Represented by:
Department of Developmental Services
Labor Relations Branch
Camarillo State Hospital and Developmental
Center
Box 6022
Camarillo, CA 93011-6022

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby
adopted as the Department's Decision in the above matter.

IT IS SO ORDERED:

March 20, 1998.



K. WILLIAM CURTIS
Chief Counsel
Department of Personnel Administration

BEFORE THE DEPARTMENT OF PERSONNEL ADMINISTRATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal by

[REDACTED]

Case No. 96-2213

For reinstatement after automatic
resignation from the position of
Psychiatric Technician with
Lanterman Developmental Center,
Department of Developmental
Services at Pomona

PROPOSED DECISION

This matter came on regularly for hearing before
Patricia A. Davenport, Administrative Law Judge, State Personnel
Board, on June 16, 1997, at Pomona, California.

Appellant, [REDACTED], was present and was
represented by Jay Salter, Consultant, California Association of
Psychiatric Technicians (CAPT).

Respondent was represented by Nancy A. Irving, Labor
Relations Specialist, Department of Developmental Services.

Evidence having been received and duly considered, the Administrative Law Judge makes the following findings of fact and Proposed Decision:

I

The above appeal from automatic resignation, effective June 26, 1996, and appellant's appeal therefrom, comply with the procedural requirements of the State Civil Service Act.

II

Appellant was appointed as a Psychiatric Technician on July 31, 1975. Her last day of work was June 15, 1996 and her last day of authorized leave was June 25, 1996. She was considered AWOL from June 26 to July 2, 1996. Her Coleman hearing was held July 15, 1996.

III

In the past, appellant was off work due to medically diagnosed depression from December 8, 1993 to January 17, 1994, and from August 1995 to September 1995. She was placed on limited duty on March 26, 1996.

IV

On June 14, 1996, appellant's request for three weeks of vacation leave was denied. She wanted to accompany her family on a vacation in Florida. Her supervisor informed appellant

[REDACTED] continued)

that she did not have enough time for three weeks of paid vacation leave, however, she was approved for one week of vacation leave, from July 4 through July 8, 1996.

V

Appellant presented a request for sick leave to her supervisor on June 18, 1996. She also submitted a medical form from [REDACTED] which indicated that she was seen by him on June 14, 1996 and that she should be off work from June 15 through July 31, 1996. The sick leave was not granted. Appellant was upset at the denial and expressed anger.

VI

Appellant did not follow her supervisor's instructions. She did not provide more detailed information to her supervisor but rather questioned her supervisor's right to require further medical information.

VII

Reason For Absence

Appellant claimed that she was absent after June 26, 1996 due to depression. She testified that her symptoms worsened in June 1996. However, appellant's supervisor, who observed her working everyday, believed that appellant was doing fine. This observation plus the concurrence of her absence during the time she wanted vacation leave, as well as her failure to provide more detailed medical information, reasonably caused appellant's

[REDACTED] continued)

supervisors to question the reason for her absence. These same factors detracted from appellant's credibility at the hearing to the extent that illness or disability from work during the AWOL period was not established.

VIII

Reason For Not Obtaining Leave

When informed that she was out of leave credits, appellant was told that she could request a leave of absence from the Program Manager. Appellant did so on June 28, 1996. However, the request was denied because appellant had not provided the additional information related to her job duties. Her deadline for doing so was June 26.

* * * * *

PURSUANT TO THE FOREGOING FINDINGS OF FACT, THE ADMINISTRATIVE LAW JUDGE MAKES THE FOLLOWING DETERMINATION OF ISSUES:

Government Code section 19996.2 provides that reinstatement may be granted only if the employee makes a satisfactory explanation to the Department as to the cause of her absence and her failure to obtain leave therefore, and the Department finds that she is ready, able, and willing to resume the discharge of the duties of her position.

In this case, appellant should not be reinstated to her position, because she did not meet the prerequisites for

[redacted] continued)

reinstatement. She did not present a satisfactory explanation for her absence and failure to obtain leave. It is not found that appellant was ill, disabled, or absent for any purpose other than to vacation with her family. This is not a satisfactory reason for an unapproved absence.

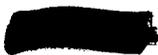
Under the circumstances of appellant's unsatisfactory job performance and presentation of an off work form without specifics, her supervisors were not unreasonable in withholding a leave of absence until she provided more medical information. Appellant did not provide the information. She did not state the reason for failing to do so at the hearing. The evidence suggests that she did not believe that her supervisors had a right to request more information. Appellant was wrong. Therefore, she did not have a satisfactory reason for failing to obtain leave.

Due to the above discussion, no finding is necessary on whether appellant is ready, able and willing to return to work.

* * * * *

WHEREFORE IT IS DETERMINED that the appeal by [redacted] [redacted] for reinstatement after automatic resignation, effective June 26, 1996, is denied.

* * * * *

 continued)

I hereby certify that the foregoing constitutes my Proposed Decision in the above-entitled matter and I recommend its adoption by the Department of Personnel Administration as its decision in the case.

DATED: March 24, 1998.


Patricia A. Davenport
Administrative Law Judge
State Personnel Board