

BEFORE THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

Anthony Hopkins,
Appellant

V.

**Department of Information Technology
(DoIT),
City of Seattle, Respondent**

**ORDER MODIFYING
HEARING OFFICER'S DECISION
and
DISMISSAL ORDER**

CSC No.07-03-013

Background: The hearing in this matter was held February 27 and 28, 2008. The Commission's Hearing Examiner Pro-Tem (Hearing Officer), Diane Hess Taylor served as the Presiding Officer. On May 5, 2008, Hearing Officer Taylor issued a decision on the appeal. This is a modification of that decision.

The Appellant was placed on unpaid administrative leave from his position of Video Technician II on November 30, 2007.¹ On December 13, 2007 the Appellant filed an appeal with the Civil Service Commission citing a violation of City personnel rules or ordinances related to Administrative Leave. In his appeal notice the Appellant wrote "can not find any reasons why I was placed on unpaid leave due to ADA accommodation".

On May 8, 2008 Diane Hess Taylor, Presiding Officer issued a decision on the appeal. Commissioner Gregg Hirakawa served as the Reviewing Officer. The Commission considered the Hearing Officer's decision at its May 21, 2008 and June 18, 2008 meetings.

In the decision the Hearing Officer:

- Found that "Appellant is not entitled to remain in the position of Video Technician II because he is not able to perform the essential functions of that job **with or without reasonable accommodation** (emphasis added)."
- Found that "The reassignment phase is not yet complete, but thus far the interactive process [related to reasonable disability accommodation] has fallen short of what is required by the City's draft policy, where the parties are to "seek and share information to achieve the best match between the employee's capabilities and a position of employment."
- Found that "To date, the City has failed to demonstrate that it has followed its policies regarding reassignment as an accommodation."
- Denied the "...Appellant's request that he remain in his job of Video Technician II."
- Ordered "...that Appellant is not entitled to remain in the job of Video Technician II; but is entitled to reasonable accommodation by reassignment to other vacant equal or lesser positions if he meets the qualifications set forth in the City's policies."
- Concluded that "A final determination on the reassignment issues is premature, as the City has placed Appellant on administrative leave until November 30, 2008 in order to search for potential positions for reassignment..."

¹ Appellant was receiving pay as of the hearing dates from donations of sick leave.

ISSUE

The issues raised in this appeal are related to Administrative Leave and Disability Accommodation.

1. Was the Appellant entitled to remain in the position of Video Technician II when he is not able to perform the essential functions of that job?
2. Did the Respondent (DoIT) fail to accommodate the Appellant's disability by failing to engage in the interactive process, failing to accommodate him in his position as Video Technician II, and/or failing to provide reassignment within the Home department or another Department within the City?

FINDING

It is uncontested that the Appellant is not able to perform the essential functions of his Video Technician II position.

Issues related to whether the Department failed to accommodate Appellant's disability by failing to engage in the interactive process, failing to accommodate him in his position as Video Technician II, and/or failing to provide reassignment within the Home department or another Department in the City of Seattle also surfaced during the appeal process. The question as to what constitutes reasonable disability accommodations is not within the Commission's jurisdiction.

The Seattle Civil Service Commission thereby issues the following

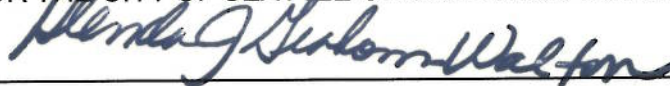
ORDER

- The Commission affirms that portion of the Hearing Officer's finding that the Appellant is not entitled to remain in the position of Video Technician II because he is not able to perform the essential functions of that job.
- The issues related to whether the Department failed to accommodate Appellant's disability by failing to engage in the interactive process, failing to accommodate him in his position as Video Technician II, and/or failing to provide reassignment within the Home department or another Department in the City of Seattle are not within the Commission's jurisdiction and are referred to the Seattle Office for Rights pursuant to Seattle Municipal Code 4.04.260(D).

This appeal is hereby **DISMISSED**.

Dated this 23rd day of June, 2008

FOR THE CITY OF SEATTLE CIVIL SERVICE COMMISSION



Glenda J. Graham-Walton, Executive Director

All Orders entered by the Executive Director shall control the subsequent course of the appeal and hearing. Orders shall be subject to modification only upon timely filing of written exceptions to the Order. The Commission must receive the written exceptions within twenty (20) days after receipt of said Order. Failure to timely raise objections to an Order shall constitute a waiver of such objections, and will preclude the party from introducing new evidence, exhibits, witnesses, issues, objections pertaining thereto, or any other pre-hearing matters at the hearing.