A-5

STATE OF NEW JERSEY

In the Matter of Melissa Walker City of Hoboken, Department of Transportation and Parking	**FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION**
CSC DKT. NO. 2016-4074 OAL DKT. NO. CSV 08262-16	

ISSUED: FEB 10 2017 **BW**

The appeal of Melissa Walker, Parking Enforcement Officer, City of Hoboken, Department of Transportation and Parking, of her removal effective February 16, 2016, on charges, was heard by Administrative Law Judge Gail M. Cookson (ALJ), who rendered her initial decision on December 16, 2016. Exceptions were filed on behalf of the appellant and a reply to exceptions was filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting on February 8, 2017, accepted the recommendation of the ALJ to uphold the removal but did not uphold the recommendation to reverse the immediate suspension and award back pay.

DISCUSSION

In the initial decision, the ALJ stated that based on the appointing authority's due process violations in implementing the appellant's immediate suspension, the appellant should receive back pay for the period of that suspension, namely from February 16, 2016 through May 9, 2016. The Commission does not agree. Initially, the Commission notes that challenges to procedural deficiencies at the departmental level are most appropriately dealt with via a petition for interim relief at the time of the alleged violations pursuant to *N.J.A.C.* 4A:2-1.2. The Commission has no record of any such petition by the appellant in this matter.

Moreover, it is well settled that procedural deficiencies at the departmental level which are not significantly prejudicial to an appellant are deemed cured through the *de novo* hearing received at the Office of Administrative Law. *See Ensslin v. Township of North Bergen*, 275 *N.J. Super.* 352, 361 (App. Div. 1994), *cert. denied*, 142 *N.J.* 446 (1995); *In re Darcy*, 114 *N.J. Super.* 454 (App. Div. 1971). In this case, the procedural deficiencies cannot be considered significantly prejudicial as the appellant has had a full opportunity to appeal the discipline taken and challenge her inappropriate actions at her *de novo* hearing. Accordingly, the Commission does not adopt that portion of the ALJ's decision awarding back pay to the appellant for the period of the immediate suspension. However, the appointing authority is cautioned to meticulously follow the disciplinary procedures outlined in *N.J.A.C.* 4A:2, *et seq.* in the future.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission, therefore, affirms that action and dismisses the appeal of Melissa Walker. Additionally, the Commission does not award the appellant any back pay for the period of her immediate suspension.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
FEBRUARY 8, 2017

Robert M. Czech

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Assistant Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Unit H
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
OAL DKT. NO.CSV 08262-16
AGENCY REF. NO. 2016-4074

IN THE MATTER OF MELISSA WALKER, CITY OF HOBOKEN, DEPARTMENT OF TRANSPORTATION & PARKING.

Merick H. Limsky, Esq., for appellant Melissa Walker (Limsky Mitolo, attorneys)

Patricia C. Melia, Esq., for respondent City of Hoboken (Weiner Lesniak, attorneys)

Record Closed: November 18, 2016 Decided: December 16, 2016

BEFORE **GAIL M. COOKSON**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Melissa Walker (appellant) appeals from the disciplinary action taken by her employer the City of Hoboken Department of Transportation and Parking (City) to remove her from her position as a Parking Enforcement Officer (PEO) on charges of failure to perform her duties in violation of N.J.A.C. 4A:2-2.3(a)(1); insubordination in violation of N.J.A.C. 4A:2-2.3(a)(2); neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); and other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(11). The charges relate directly or indirectly to the responsibility of a PEO to notify a supervisor if,

while on the job, twenty minutes passes without the PEO being able to issue a parking ticket (Twenty Minute Policy). Appellant denies the charges and claims that she did her job, that she was given a neighborhood in which it was difficult to find parking violators, and that when she called in consistent with policy, supervisors were not available.

Petitioner appealed her termination under cover of May 13, 2016. The matter was transmitted to the Office of Administrative Law (OAL), on June 1, 2016, for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. On June 16, 2016, I held a case management conference telephonically with the parties in which discovery and hearing dates were discussed.

The plenary hearings were held on October 6 and 18, 2016. Post-hearing briefs were permitted and the record closed on November 18, 2016, with receipt of the written closing statements as the final submissions.

FACTUAL DISCUSSION

Based upon due consideration of the testimonial and documentary evidence presented at the hearing, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following **FACTS**:

Robert Orsini has been employed by the City for fourteen years, including his current position as a PEO Supervisor which he assumed after being a PEO. The City employs eighteen PEOs over whom he shares responsibility with Hector Mojito. Together, they assign the routes and check on the productivity of the PEOs. Orsini stated that he drives around the City approximately once per month in order to observe the PEOs and garner more information on productivity issues. He also observes construction and other impacts to the City's parking situation, which he generally described as over-crowded. In addition to meter violations, it is common in the City for cars to be parked in cross-walks, loading zones and in front of fire hydrants, as well as double-parked.

Orsini remarked that in the City, it was practically unheard of for a PEO to go twenty (20) minutes without finding a parking violation, with the possible exception of areas where construction was being undertaken. There was no quota system in place mandating the writing of parking tickets for PEOs but there was a policy that a PEO who goes more than twenty minutes without finding a parking violation is to contact their supervisor. From there, it is up to the supervisor to decide whether to relocate the PEO or provide other suggestions. This Twenty Minute Policy was acknowledged as only a verbal policy until May 23, 2014, after which it was reduced to writing and acknowledged by appellant and all other PEOs. Orsini also explained that PEOs each received a meal break as part of the bargaining agreement and the City Handbook but that otherwise PEOs were expected to call in a "10-7" or "taking a 15" for permission to take a short break.

On February 2, 2016, Orsini was riding in his truck on Washington Street in a section that had been assigned to appellant. He stated that he could not find her on either side of her assigned route. He said that he then entered the McDonald's on Washington and Third Streets where he found appellant sitting in the back. Walker advised him that she had texted Mojito about the lack of violations she found so far that morning, consistent with the Twenty Minute Policy, which Orsini acknowledged would be consistent with that policy. Nevertheless, she had not called in to request a break and there were sure to be plenty of those other types of parking violations on her route if she looked for them.

One of the responsibilities of the PEO supervisors is to review the parking ticket reports for each PEO. Any time a PEO writes up a violation, it is recorded from their ticket instrument electronically to the City. In reviewing the reports from the prior day, Orsini or Mojito would look for any large gaps between tickets. He explained how to read the automated Parking Authority Ticketing System that produces daily Detailed Statistics by Officer Reports. These itemized the large gaps of time when appellant wrote no tickets on her route. For example, on February 2, 2016, Orsini noted that the report indicated that appellant wrote zero (0) tickets between the start of her shift at 9:00 a.m. and 11:03 a.m. Yet, she wrote seven (7) tickets between 11:03 a.m. and 11:44 a.m. that day. Moreover, appellant issued ten (10) and fourteen (14) tickets on

February 5 and 6 between 9 and 11 respectively, consistent with Orsini's comment that the City has insufficient parking capacity and that it is hard not to find a parking violation and contrary to appellant's testimony that meters are unexpired first thing in the morning.

Additional large gaps between tickets issued by appellant were revealed on those Detailed Statistics reports. I am omitting any of the gaps that were minor violations of the Twenty Minute Policy or accepted as her lunch break. Included, but not limited to, the violations were –

February 2[1]	1:00 – 2:53	1 hour, 53 minutes
	3:20 – 4:55	1 hour, 25 minutes
February 3	10:13 – 12:09	1 hours, 56 minutes
	1:26 – 4:50	3 hour, 24 minutes
February 5	10:04 – 11:05	1 hour, 1 minute
	11:11 – 1:07	0 hour, 56 minutes (net lunch)
	1:16 – 2:40	1 hour, 24 minutes
	3:16 – 4:56	1 hour, 40 minutes
February 6	9:49 – 11:54	2 hours, 5 minutes
	1:25 – 4:34	3 hours, 9 minutes

Orsini confirmed even on cross-examination that a PEO can always reach a dispatcher or the customer service desk if s/he cannot reach a supervisor to report a lack of violations in the area. The Supervisors and PEOs can communicate through City-issued hand-held, two-way radios, by calling dispatch or the office, or by calling or texting the supervisor's cell phones, which numbers the PEOs are given. He clarified that the review of the electronic violation reports was one of his regular duties as the morning supervisor.

[1] There is a gap of 76 minutes noted between 11:44 a.m. and 1:00 p.m. but I am assuming that was appellant's lunch time. Similarly, on February 6, appellant had an 82 minute gap that included her lunch hour. It was also ambiguous as to how respondent allowed for a PEO walking back to office to punch in and out for lunch. Therefore I will not find that these two gaps were not violations of the Twenty Minute Policy.

On cross-examination, however, Orsini also seemed confused about whether PEOs were entitled to a fifteen-minute break or whether they had to ask permission for such. He agreed that there was no requirement for a PEO to ask a supervisor for permission to stop in a store for a bottle of water or other quick break. Orsini also admitted that he had been told by appellant that she was subject to anxiety attacks but she had never asked for any accommodation as a result of that or any other condition. With respect to McDonald's, he stated that there had been a prior occasion when he was eating there and appellant later came in and sat down with him but that was not what happened on February 2.

Because the allegations herein all concern just one week, Orsini was asked on cross-examination as to appellant's job performance for the prior eight months after she returned from a suspension. He stated that her performance was fine. He acknowledged that he did not sit down with her or ask her why this particular week turned out to be problematic.

Hector Mojica also testified for the City. He is also a PEO Supervisor, having served in that capacity for the last five years after being a PEO for approximately twelve years. He also described the supervisory responsibilities as including roll call, uniforms, route assignments and productivity reports. In dividing those responsibilities, Mojica stated that Orsini currently is more on the outside overseeing the routes and also handles the productivity reports. Mojica addresses larger issues and projects such as temporary street closings and parking limitations for construction, paving, parades and other similar obstructions.

Mojica also explained the call-in process for a PEO who needs to report under the Twenty Minute Policy and the break protocols. To his knowledge, appellant had not been experiencing productivity issues and violations of the Twenty Minute Policy prior to this week in February.[2] On cross-examination, Mojica agreed that appellant's text to

[2] On the record, I sustained an objection to the introduction through Mojica by the City of additional Detailed Ticket Statistics on appellant's work performance between May 2015 and February 2016 on several grounds. It had not been produced prior to the first hearing date; it was not relevant to the specification of charges; it had not been provided to appellant's counsel; and it was intended to try to rehabilitate the City's own witness.

him on the morning of February 2 was a proper means of complying with the Policy. He did not follow up with appellant beyond his reply text of "OK," nor did he pass along the communication to Orsini. Mojica was of the opinion that appellant should have known to look for violations beyond expired meters without any reminders from one of the supervisors. Mojica reiterated that a "10-7" text or call was required before a PEO could take a short break pursuant to written and verbal protocols.

Appellant testified on her own behalf at this hearing. She has been a PEO with the City for five years. As established on the record, appellant was on a suspension previously for violations of the Twenty Minute Policy and returned to work in May 2015. Appellant did not contest the applicability of the Twenty Minute Policy but stated that she would always contact one of the supervisors when she could not locate violations but that she either did not get an answer or she would be advised to just "stay on your route." The supervisors would never come out to the route to suggest modifications.

With respect to the allegation that Orsini found her in the back of the McDonald's on February 2, appellant explained that she went in there to get a cup of water because she was feeling light-headed. She had completed her route initially after the start of her shift at 9:00 a.m. and had trouble finding any meters that were not paid up. Appellant described her route that day as the east side only of Washington Street between Observer and 8th streets. And yet, appellant said that she stopped when she got to 2nd Street.[3] She recalled that Orsini came in, ordered food and sat himself down. She then joined him. She denied being in the back of the McDonald's when he arrived.

Appellant testified that for the other gaps in productivity specified in these charges that she always contacted or attempted to contact a supervisor but that they are either unavailable or unhelpful. She also disagreed that the break practice is to always call in a "10-7." Appellant asserted that all PEOs will just jump off their routes for a bathroom or to buy water without calling it in each time.

[3] I will take judicial notice of the fact that, as I placed on the oral record at the hearing, the McDonald's is on the corner of Washington and 3rd Street.

On February 16, 2016, appellant reported for and completed her normal shift. As she was punching out, Orsini told her that she was not to return to work and that Director Morgan wanted her suspended. She thinks she got a paper copy of the original Preliminary Notice of Disciplinary Action (PNDA) that day. She could not recall how she received the Amended PNDA.

On cross examination, appellant explained that the police officers often ticketed double-parked cars before the PEOs could get to them. She took photos of their tickets but no longer has the same cell phone with which she took them. Sometimes, she would also be competing with another PEO on the same routes. Appellant said that it was possible that she had been assigned both sides of Washington Street that day. It was hard to recall as it was many months ago and her route often changed. Once again, she denied sitting in McDonald's eating any food. She was not feeling well and the agency has proof on file that she is on some anti-anxiety medications.

I gave appellant every opportunity through my own questioning to explain whether she had personal circumstances that particular week in February 2016 that would mitigate her lack of job productivity. Appellant insisted that she did not take time out of her shift to go home or to her mother's house in order to check in on her children or to take a nap. I **FIND** that appellant was not a credible witness. She did not produce any corroborating witnesses or documentary records such as cell phone messages or call history to buttress her statements that she constantly reported gaps in her productivity along her route or that all the meters were paid up. Clearly, her own productivity statistics indicates that she finds plenty of violations when she is attending to her route.

ANALYSIS AND CONCLUSIONS OF LAW

The Civil Service Act, N.J.S.A. 11A:1-1 to -12.6, governs a public employee's rights and duties. The Act is an important inducement to attract qualified personnel to public service and is liberally construed toward attainment of merit appointments and broad tenure protection. Essex Council No. 1, N.J. Civil Serv. Ass'n v. Gibson, 114 N.J. Super. 576 (Law Div. 1971), rev'd on other grounds, 118 N.J. Super. 583 (App. Div.

1972); Mastrobattista v. Essex County Park Comm'n, 46 N.J. 138, 147 (1965). Governmental employers also have delineated rights and obligations. The Act sets forth that it is State policy to provide appropriate appointment, supervisory and other personnel authority to public officials so they may execute properly their constitutional and statutory responsibilities. N.J.S.A. 11A:1-2(b).

"There is no constitutional or statutory right to a government job." State-Operated Sch. Dist. of Newark v. Gaines, 309 N.J. Super. 327, 334 (App. Div. 1998). A civil service employee who commits a wrongful act related to her duties, or gives other just cause, may be subject to major discipline. N.J.S.A. 11A:2-6; N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2; N.J.A.C. 4A:2-2.3. The issues to be determined at the de novo hearing are whether the appellant is guilty of the charges brought against her and, if so, the appropriate penalty, if any, that should be imposed. See Henry v. Rahway State Prison, 81 N.J. 571 (1980); W. New York v. Bock, 38 N.J. 500 (1962). In this matter, the City bears the burden of proving the charges against appellant by a preponderance of the credible evidence. See In re Polk, 90 N.J. 550 (1982); Atkinson v. Parsekian, 37 N.J. 143 (1962).

For evidence to be credible it must be such as to lead a reasonably cautious mind to a given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). Therefore, the tribunal must "decide in favor of the party on whose side the weight of the evidence preponderates, and according to the reasonable probability of truth." Jackson v. Del., Lackawanna and W. R.R. Co., 111 N.J.L. 487, 490 (E. & A. 1933). For reasonable probability to exist, the evidence must be such as to "generate belief that the tendered hypothesis is in all human likelihood the fact." Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959) (citation omitted). Preponderance may also be described as the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975). Credibility, or, more specifically, credible testimony, in turn, must not only proceed from the mouth of a credible witness, but it must be credible in itself, as well. Spagnuolo v. Bonnet, 16 N.J. 546, 554-55 (1954).

Based upon the facts set forth above, I **FIND** that the respondent's witnesses were more credible and their testimony was entitled to more weight than the denials of appellant, at least with respect to her job duties, her understanding of those duties, and the productivity of her assignment. Appellant's protestations that her assignment route and blocks made it difficult for her to find parking violations were not credible. Setting aside the very generic statement of respondent's witnesses that one could easily find parking violations in Hoboken, what is more objectively telling is that appellant had no difficulty finding lots of parking violations on most days, or even during the portions of the days that are at issue herein. Appellant was writing up violations just minutes apart when she was in fact writing up violations. If her route was the problem because of handicapped exceptions or police officers beating her to cars double-parked, it would have been expected that her days would more consistently fall short. Instead, it was just particular, discrete periods of days that were charged based upon the objective time logs. Moreover, as demonstrated above, the gaps were very large indeed.

I **CONCLUDE** that appellant was not credible with her excuses for the large gaps of time when she claimed she tried to call her supervisor but would otherwise just keep walking around. The preponderance of the credible evidence demonstrates that it was more likely than not that appellant went off her route during the various large gaps. I cannot determine on the basis of the present record where she went but I also need not so determine.

Having concluded that substantial violations of the Twenty Minute Policy occurred, I must determine the proper penalty or discipline to be assessed. A system of progressive discipline has evolved in New Jersey to serve the goals of providing employees with job security and protecting them from arbitrary employment decisions. Progressive discipline is considered to be an appropriate analysis for determining the reasonableness of the penalty. See Bock, supra, 38 N.J. at 523-24. The concept of progressive discipline is related to an employee's past record. The use of progressive discipline benefits employees and is strongly encouraged. The core of the concept of progressive discipline is the nature, number and proximity of prior disciplinary infractions should be addressed by progressively increasing penalties. It underscores the

philosophy that an appointing authority has a responsibility to encourage the development of an employee's potential.

In addition to considering an employee's prior disciplinary history when imposing a penalty under the Act, other appropriate factors to consider include the nature of the misconduct, the nature of the employee's job, and the impact of the misconduct on the public interest. Ibid. Depending on the conduct complained of and the employee's disciplinary history, major discipline may be imposed. Id. at 522-24. Major discipline may include removal, disciplinary demotion, or a suspension or fine no greater than six months. N.J.S.A. 11A:2-6(a), -20; N.J.A.C. 4A:2-2.2, -2.4.

In this case, I **CONCLUDE** that the City has supported its case for removal because of appellant's prior violation of the Twenty Minute Policy. In my own prior Initial Decision, appellant was advised:

> Subject to final agency action and any appeals, appellant should be entitled to return to and be retrained for her employment as a PEO for the City of Hoboken. Thereafter, appellant is fully forewarned that she must comply with all work policies on meals, breaks, leave time, and the Twenty Minute Policy if she wants to keep her public employment.

Nevertheless, I advised counsel to brief the issue of her suspension without pay prior to her departmental hearing and formal removal because it appeared to violate generally accepted regulatory and constitutional provisions. The United States Supreme Court in Gilbert v. Homar, 520 U.S. 924, 117 S. Ct. 1807, 138 L. Ed. 2d 120 (1997), clarified that the process due an employee faced with termination is distinguishable from the process due an employee faced with suspension without pay. Gilbert clarified that when an employee is suspended without pay, due process requirements differ because there are times when a "State must act quickly, or where it would be impractical to provide predeprivation process." 520 U.S. at 930. 117 S. Ct. at 1812, 138 L. Ed. 2d at 127. The Court in Gilbert directed that the Mathews-Eldridge balancing test be applied when determining if a pre-suspension hearing is or was necessary by looking first to "the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the

procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest.'" 520 U.S. at 931-32, 117 S. Ct. at 1812, 138 L. Ed. 2d at 128 (quoting Mathews v. Eldridge, 424 U.S. 319, 335, 47 L. Ed. 2d 18, 96 S. Ct. 893 (1976)). Considered in that balancing test are facts such as how long the employee will go without pay before being heard; if the position the employee holds coupled with the reason for suspension requires immediate action; or whether reasonable grounds exist to support the suspension, such as, as in Gilbert, supra, a felony indictment of a police officer. Gilbert, supra, 520 U.S. at 932-36, 117 S. Ct. at 1813-15, 138 L. Ed. 2d at 128-31.

In Cleveland Bd. of Ed. v. Loudermill, 470 U.S. 532, 84 L. Ed. 2d 494, 105 S. Ct. 1487 (1985), the U.S. Supreme Court concluded that a public employee dismissible only for cause was entitled to a very limited hearing prior to his termination, to be followed by a more comprehensive post-termination hearing. Stressing that the pre-termination hearing "should be an initial check against mistaken decisions -- essentially, a determination of whether there are reasonable grounds to believe that the charges against the employee are true and support the proposed action," id., at 545-546, the Court held that pre-termination process need only include oral or written notice of the charges, an explanation of the employer's evidence, and an opportunity for the employee to tell his side of the story, id., at 546. In the course of its assessment of the governmental interest in immediate termination of a tenured employee, the Court stated that "in those situations where the employer perceives a significant hazard in keeping the employee on the job, it can avoid the problem by suspending with pay." Id., at 544-545 (emphasis added; footnote omitted). Thus, Loudermill spoke specifically to the necessity of providing the employee with some opportunity for a hearing prior to the employee's suspension without pay.

These principles are reflected in N.J.A.C. 4A:2-2.5(b) where an employer is expected to determine that the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that the immediate suspension is necessary to maintain safety, health, order or effective direction of public services, prior to suspending the employee without pay. Furthermore, the regulations and the case law stand for the proposition that the requirements of N.J.A.C. 4A:2-2.5(b), such as informal

notice and an opportunity to respond, must be met before an employee is suspended without pay.

Here, respondent did not even try to comply with these due process provisions. It merely issued an Amended Preliminary Notice of Disciplinary Action and stuck in there the words it thought would be talismanic for taking away of petitioner's rights and pay until the departmental hearing could be undertaken. The balancing test set forth above does not support this after-thought. Petitioner is a Parking Enforcement Officer; she had no quota of parking tickets she must issue; she had many weeks and months of compliance with her job duties; she has no impact on the safety or health of the City's residents; and she is not employed in a highly skilled or law enforcement position, or one with access to sensitive information. Petitioner issues tickets for parking and other non-moving street violations that provided revenues to the respondent.

ORDER

Accordingly, it is **ORDERED** that the disciplinary action entered in the Final Notice of Disciplinary Action of the City of Hoboken, Department of Transportation and Parking against appellant Melissa Walker for her termination is hereby **AFFIRMED**. It is further **ORDERED** that the immediate suspension imposed by the City of Hoboken, Department of Transportation and Parking against appellant Melissa Walker on February 18, 2016, retroactive to February 16, 2016, is hereby **REVERSED** and she shall be paid back pay for the period February 16, 2016, through May 9, 2016.

I hereby **FILE** my Initial Decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, MERIT SYSTEM PRACTICES AND LABOR RELATIONS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, P.O. Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

December 16, 2016

DATE

Gail M Cookson

GAIL M. COOKSON, ALJ

Date Received at Agency: December 16, 2016

Date Mailed to Parties: December 19, 2016

id

Laura Sachs

~~DIRECTOR AND~~
CHIEF ADMINISTRATIVE LAW JUDGE

APPENDIX

LIST OF WITNESSES

For Appellant:

Melissa Walker

For Respondent:

Robert Orsini

Hector Mojica

LIST OF EXHIBITS IN EVIDENCE

For Appellant:

None.

For Respondent:

R-1 City of Hoboken Employee Handbook Acknowledgement

R-2 Memo from Director John Morgan to Melissa Walker Re: 20 minute policy, dated May 23, 2014

R-3 Collective Bargaining Agreement

R-4 Break Policy

R-5 Initial Decision, dated April 13, 2015

R-6 Amended Preliminary Notice of Disciplinary Action, dated February 18, 2016, with attachment

R-6a Preliminary Notice of Disciplinary Action, dated February 16, 2016, with attachment

R-7 Text Message, dated February 2, 2016

R-8 Written Statement Robert Orsini, dated February 2, 2016

R-9 Email from Orsini to Dedio, dated February 2, 2016

R-10 Detailed Ticket Statistics

R-11 Final Notice of Disciplinary Action, dated May 9, 2016

R-12 [not in evidence]