



## STATE OF NEW JERSEY

In the Matter of Sean Hill, Bayonne,  
Department of Public Works

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2023-2180

OAL Docket No. CSV 03341-23

**ISSUED: MAY 21, 2025**

The appeal of Sean Hill, Tree Maintenance Worker 2, Bayonne, Department of Public Works, removal, effective December 13, 2022, on charges, was heard by Administrative Law Judge Andrea Perry Villani (ALJ), who rendered her initial decision on April 21, 2025. No exceptions were filed.

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 May 21, 2025, adopted the ALJ's Findings of Facts and Conclusions of Law and her recommendation to uphold the removal.

The Commission makes the following comments. The ALJ's decision is based significantly on her assessment of the witnesses' testimony. In this regard, she explicitly found the appellant's version of the incident not credible. In this regard, the Commission acknowledges that the ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.*, 149 N.J. 108 (1997). "[T]rial courts' credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted by the record." *See also, In re Taylor*, 158 N.J. 644 (1999) (quoting *State v. Locurto*, 157 N.J. 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra*). The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has the authority to reverse or modify an ALJ's decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. *See N.J.S.A. 52:14B-10(c); Cavalieri v. Public Employees Retirement System*, 368 N.J. Super. 527 (App. Div. 2004). The Commission finds no persuasive evidence in the record to demonstrate that the ALJ's

findings and conclusions based on those determinations were arbitrary, capricious or unreasonable.

Regarding the penalty, similar to its assessment of the charges, the Commission's review of the penalty is *de novo*. In addition to its consideration of the seriousness of the underlying incident in determining the proper penalty, the Commission also utilizes, when appropriate, the concept of progressive discipline. *West New York v. Bock*, 38 N.J. 500 (1962). In determining the propriety of the penalty, several factors must be considered, including the nature of the appellant's offense, the concept of progressive discipline, and the employee's prior record. *George v. North Princeton Developmental Center*, 96 N.J.A.R. 2d (CSV) 463. However, it is well established that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual's disciplinary history. *See Henry v. Rahway State Prison*, 81 N.J. 571 (1980). It is settled that the theory of progressive discipline is not a "fixed and immutable rule to be followed without question." Rather, it is recognized that some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. *See Carter v. Bordentown*, 191 N.J. 474 (2007).

In her initial decision, the ALJ stated:

In this case, Hill has a disciplinary history, but his misconduct on December 6, 2022 was also severe. As to prior discipline, Hill was suspended in 2017 for driving a city-issued vehicle without a license, damaging another vehicle, and disobeying an order from the Superintendent not to drive a city vehicle. Hill also misused a city vehicle in the instant situation. He operated his work vehicle under the influence of alcohol. He did it twice in one day, even after his supervisor caught him drinking at a bar. In addition to driving, Hill's job duties included operating heavy machinery, such as large chainsaws, sometimes at great heights. As such, his drinking, along with recent and past misuse of city vehicles, created a safety risk to himself, fellow employees, and the public. His denial and disrespect toward his supervisors trying to address these issues only exacerbated the problem. Therefore, I **CONCLUDE** that Hill's misconduct rendered him unsuitable for continuation in his position and he must be terminated.

The Commission agrees with the ALJ's assessment. Here, it is clear that the appellant's actions were egregious, and, when coupled with his prior history, makes him unsuitable for continued public employment. As such, the Commission affirms his removal from employment.

### ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore upholds that action and dismisses the appeal of Sean Hill.

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  
THE 21<sup>ST</sup> DAY OF MAY, 2025

A handwritten signature in black ink that reads "Allison Chris Myers". The signature is written in a cursive, flowing style.

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Allison Chris Myers  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Nicholas F. Angiulo  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
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Attachment



**State of New Jersey**

OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. CSV 03341-23

AGENCY DKT. NO. 2023-2180

**IN THE MATTER OF SEAN HILL,  
CITY OF BAYONNE, DEPARTMENT OF PUBLIC  
WORKS**

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**Francisco Guzman, Esq., for appellant (The Guzman Law Practice, attorneys)**

**Alan Roth, Esq. for respondent, City of Bayonne, Department of Public Works,  
(Ruderman & Roth, LLC, attorneys)**

Record Closed: April 10, 2025

Decided: April 21, 2025

**BEFORE ANDREA PERRY VILLANI, ALJ:**

**STATEMENT OF THE CASE**

On December 6, 2022, Sean Hill, a Tree Maintenance Worker who operated heavy machinery for the City of Bayonne, visited a bar, drank alcohol, and drove his city vehicle during work hours, causing risk of harm to persons and property. Must Hill be terminated? Yes. Termination is warranted when an employee engages in severe misconduct that causes risk of harm to persons or property. In re Herrmann, 192 N.J. 19, 33 (2007).

### **PROCEDURAL HISTORY**

On December 12, 2022, respondent, City of Bayonne (Bayonne), served Hill, a Tree Maintenance Worker, with a Preliminary Notice of Disciplinary Action (PNDA). In the PNDA, Bayonne charged Hill with incompetency, inefficiency, or failure to perform duties under N.J.A.C. 4A:2-2.3(a)(1); insubordination under N.J.A.C. 4A:2-2.3(a)(2); conduct unbecoming a public employee under N.J.A.C. 4A:2-2.3(a)(6); neglect of duty under N.J.A.C. 4A:2-2.3(a)(7); misuse of public property under N.J.A.C. 4A:2-2.3(a)(8); and other sufficient cause under N.J.A.C. 4A:2-2.3(a)(12). The PNDA specified that on December 6, 2022, Hill went to a local bar during work hours, drank alcohol, drove away in his city-issued vehicle, sent an obscene text to his supervisor, and falsely denied that he was drinking.

On February 21, 2023, Bayonne conducted a disciplinary hearing.

On March 2, 2023, Bayonne issued a Final Notice of Disciplinary Action (FNDA) sustaining all charges and removing Hill from his position as Tree Maintenance Worker effective December 13, 2023.

On March 20, 2023, Hill filed an appeal with the Office of Administrative Law (OAL) and the Civil Service Commission.

On February 25, 2025, and April 10, 2025, I conducted the hearing and closed the record.

### **DISCUSSION AND FINDINGS OF FACT**

From September 2014 to December 2022, Hill worked for Bayonne Department of Public Works (DPW). He began in the position of Laborer 1 and then moved to Laborer 2. At some point thereafter, Hill received training on tree trimming, tree climbing, and using power tools, which enabled him to move to the position of Tree Maintenance Worker. Hill continued in that position until his termination.

Hill was part of DPW's Forestry Division, which consists of five or six workers. The Forestry crew is charged with completing a work order each day that typically involves tree removal or trimming. Among other things, tree removal and trimming involves operating large chain saws, sometimes at heights of up to seventy feet. At the end of each day, the crew must prepare for the following day's work by setting up barricades and placing signs on trees.

The Forestry crew works different hours than most other DPW employees. They typically work from 7:00 a.m. to 2:00 p.m. Their official hours are 7:00 a.m. to 3:00 p.m., but they routinely work through lunch and leave at 2:00 p.m., taking their lunch from 2:00 to 3:00 p.m.. This eliminates a lunch break in the middle of the day during which trees might be down and streets blocked off.

On December 6, 2022, Hill worked his usual hours as part of the Forestry crew. He signed into work at 7:00 a.m., and he signed out of work at 2:00 p.m.

One of Hill's supervisors that day was Joseph Cannarozzo, the Superintendent of Public Works for the City of Bayonne. Cannarozzo has been the Superintendent since 2016, and before that he was a supervisor for DPW running a crew of two or three workers. As Superintendent, Cannarozzo "supervises the supervisors" and gives out daily job assignments. He also regularly checks on the condition of city streets and parks, and he follows up on work orders.

Around noon on December 6, 2022, Cannarozzo was driving from the Bayonne Senior Center to his office at Central Garage when he noticed an unattended DPW truck parked on the corner. It was truck number 324, which was assigned to the Forestry Division and specifically to Hill. Upon seeing the truck, Cannarozzo drove around the block a few times. He did not see any barricades, notices, Hill, or any other forestry workers in the area. The only thing nearby was a bar one block away: The Vic Tavern.

Cannarozzo went inside The Vic Tavern to look for Hill. The Vic Tavern has two rooms: a dining room and a bar area. When Cannarozzo entered the tavern at around 12:10 p.m., he entered through the dining room, which was empty. He walked toward the bar area

and stopped at the entrance. As he reached the threshold to the barroom, he noticed Hill sitting at the bar. Hill was the only person there other than the bartender. Cannarozzo saw a beer and a shot glass on the bar in front of Hill. Cannarozzo did not enter the room, but from the threshold asked Hill, "What are you doing here?" Hill responded, "Ordering food." Cannarozzo said, "You're not supposed to be here." Hill said, "I'm not drinking," and again Cannarozzo said, "You're not supposed to be here." Cannarozzo left.

As Cannarozzo drove away from the tavern, Hill called him. Cannarozzo answered, and Hill repeated, "I wasn't drinking. It wasn't mine. I can get the bartender to get the tapes." Hill was talking a lot, and he spoke over Cannarozzo. Cannarozzo replied, "I'm not discussing this over the phone. You want to discuss it, come to Central Garage and we'll discuss it."

Cannarozzo continued driving for about ten minutes until he reached the garage where he waited for around thirty minutes. Hill never arrived. At 1:07 p.m., Cannarozzo received a text message from Hill. In the text message Hill stated, "I will have the owner check his cameras for you, next Tuesday check the men's room, might be someone in there with a dick in their hand." (R-5.)

Cannarozzo then called Thomas Cotter, the Director of Public Works, about the text message, and Cotter said he should come to City Hall to discuss. Cannarozzo arrived at City Hall around 1:30 p.m., and Cotter looked at Cannarozzo's phone. Cotter said, "Oh my god. Who did this text come from?" and "What happened that he sent you this text?" Cotter told Cannarozzo to write down what happened that day, which he did. (R-4.) Cotter also said, "Let me see what his side is," referring to Hill. Cotter then set a meeting for the next day, December 7, 2022, with Hill and his union representative, and Cannarozzo and his union representative. Cotter explained, "Any time I get a complaint, I bring in the employee with the union rep to get their side of the story."

The next day, December 7, 2022, Cotter did indeed meet with Cannarozzo, Hill, and their union representatives: Scott Corrigan and Billy Weaver. (R-6.) The meeting was only about five to ten minutes long. Cotter told Hill that the purpose of the meeting was to discuss the inappropriate text message. However, Hill immediately brought up the bar, stated he

wasn't drinking, and further stated he would have the bartender provide a video. As to the text message, Hill did not deny sending it, and he said, "That's the way men talk to each other." Cotter testified that Hill was mad, his tone was elevated, and the meeting was heated and unproductive, so he quickly ended the meeting and sent Hill home for the day.

Cotter then spoke to Donna Russo, the current Business Administrator for the City of Bayonne, about the incident. At the hearing, Cotter could not remember if Russo was part of the City's Law Department or the Business Administrator back in 2022. However, Cotter did recall telling Russo about the meeting and that he intended to discuss the inappropriate text message with Hill on December 7, 2022, but Hill kept talking about drinking and getting video from the bar.

After Cotter and Russo spoke, Russo requested the video from the bar. She received a total of four videos from The Vic Tavern. (R-9.) Each video is thirty minutes long, spanning from 11:30 a.m. to 1:30 p.m. on December 6, 2022. The videos are stamped with the time and date. All four videos were taken by the same security camera, which is located in the back corner of the barroom.

The videos reflect the following. On December 6, 2022, Hill walked into the barroom of the tavern at 11:45:41 a.m. No one else was in the barroom except for the bartender, who was behind the bar. Hill was wearing his bright yellow work vest. He put his cell phone down on the bar, paced back and forth, and walked to the left side of the bar out of the camera's view. The bartender placed a bottle of beer and a glass on the bar next to Hill's cell phone. Hill came back into view of the camera and returned to the place at the bar where he left his cell phone. At the same time, the bartender poured a shot from a brown bottle into the glass next to Hill's cell phone. Hill then sat down at the bar in front of the beer bottle and shot glass at 11:47:00 a.m. Hill talked with the bartender. At 11:49:20 a.m., Hill drank from the shot glass. At 11:54:54 a.m., Hill took another drink from the shot glass. At 12:06:42 p.m., Hill slid his shot glass toward the bartender. The bartender poured another shot from a brown bottle.

At around 12:09:00 p.m., Hill's attention was drawn to the left side of the bar. At 12:09:27 p.m., he got up and walked across the barroom to look out the window. At 12:10:13



p.m., Hill made a telephone call and became animated while on the phone, gesturing and pointing and pacing around the room. Hill ended the call at 12:11:34 p.m. He said something to the bartender, sat down for a moment at the bar, then got up and left at 12:12:10 p.m. The bartender took the shot glass off the bar. Several minutes later, the bartender took the beer bottle off the bar.

At 1:00:18 p.m., the bartender put Hill's beer bottle and shot glass back on the bar in front of an empty chair, seemingly anticipating Hill's return. Hill did return to the bar at 1:23:10 p.m. The bartender put the shot glass in front of him. At 1:24:00 p.m., the bartender handed Hill a receipt. At 1:25:38 p.m., Hill drank from the shot glass. At 1:26:56 p.m., Hill spoke to a man in a green shirt about the receipt. Hill placed the receipt on the pool table, and they both leaned over the pool table looking at the receipt. While they discussed the receipt, the bartender placed a black bag on the bar that appeared to contain take-out food. The man in the green shirt walked behind the bar with the receipt and Hill's credit card. Hill took the bag with the food. The man in the green shirt handed back the receipt. At 1:31:22 p.m., Hill took the bag and walked out of the bar.

Cannarozzo does not appear in the videos. Both Cannarozzo and Hill testified that Cannarozzo never entered the barroom. He spoke to Hill from the adjoining dining room. During testimony, Cannarozzo identified the point in the video when he arrived and spoke to Hill. It was around 12:09 p.m. Indeed, at 12:09:27 p.m., Hill got up and walked across the barroom to look out the window, and at 12:10:13 p.m., Hill made a telephone call. This was the phone call that Cannarozzo said he received from Hill while driving away.

Cannarozzo's testimony was very reliable. It was consistent with the video evidence and the memo he wrote on December 8, 2022. (R-4.) His testimony was also straightforward with no trace of animus toward Hill. Cannarozzo did not appear to have any interest in portraying Hill in a negative light. To the contrary, he seemed protective of Hill and even minimized some of Hill's mistakes.

For instance, Cannarozzo testified that Hill's tone during the December 6, 2022 phone call was "normal," though it likely wasn't. In the video, Hill is pacing and pointing and gesturing emphatically while on the phone. Cannarozzo acknowledged that Hill "was talking

a lot and was talking over him,” but he took no issue with Hill’s tone, even though Hill’s body language during the phone call did not reflect a “normal” speaking tone.

Similarly, Cannarozzo downplayed Hill’s behavior during an incident in November 2022, though it was clearly problematic. On November 15, 2022, Cannarozzo was speaking with a property owner about the forestry crew trimming a tree on their property when Hill showed up yelling and complaining “about how we should get our act together on who the boss is.” (J-1.) Cannarozzo spoke to Hill about it the next day, and again Hill was ranting and raising his voice. (J-1.) At hearing, counsel asked Cannarozzo if Hill’s behavior was shocking, and Cannarozzo said no, “I wouldn’t call it shocking.” Cannarozzo agreed that Hill’s behavior was “inappropriate and unprofessional.” However, in his own words, Cannarozzo described Hill as simply “boisterous and loud.”

Hill only received a warning for his behavior in November 2022, but he was suspended for an incident that occurred in 2017. (R-10.) On January 11, 2017, Hill completed an updated Information Form for DPW’s files. (R-10.) He checked off that he had a valid license, but he did not provide DPW with a copy of the license. (R-10.) As a result, DPW instructed Hill not to operate any city vehicles. (R-10.) However, on February 23, 2017, Hill ignored that order, drove a city vehicle, and damaged another vehicle. (R-10.) The police then informed DPW that Hill’s license had been suspended since 2015. (R-10.) Hill testified that he didn’t know his license was suspended.

Hill also received two verbal warnings in 2017. One was for being at a bank ATM and not at his assigned location during work hours. (R-10.) Another was for sleeping in his work vehicle during work hours. (R-10.) As to this incident, Hill testified that the truck had just been repaired, and the mechanic told him to sit in the vehicle and let it idle for several minutes.

With respect to December 6, 2022, Hill testified as follows. He signed in at 7:00 a.m. but didn’t start the day’s job until 9:00 a.m. Hill explained: “we don’t start until after school because the buses are in the way”; “we can’t shut the street down because of the school buses”; “we stop at the store and get coffee”; and, “since I’ve been employed there, we’ve never started before 9:00 a.m.” At 9:00 a.m., Hill and the Forestry crew did a small job and

finished early, a little after 11:00 a.m. His direct supervisor, Marian Wilnat, was out, and Hill had no other assignments that day, so he rode around looking at jobs to post for the next day. Hill attempted to describe what jobs he looked at and when, but his testimony was unclear.

Hill further testified that he went to The Vic Tavern at 11:45 a.m. and was there for exactly twenty-seven minutes. Hill said he went there to pay his tab and order food, but the bartender provided drinks that Hill didn't ask for. The drinks were a Corona and Johnny Walker Black. Hill also testified that when Cannarozzo came in, "he said, 'what are you doing here, you know you're not supposed to be here,' dadadada...he may have said that I'm taking a lunch." Hill said he drank a shot and left.

Hill claimed that he drove to the DPW garage and waited for Cannarozzo, but Cannarozzo never showed up. As discussed above, Cannarozzo testified that he went to the garage and waited for Hill, and Hill never showed up.

When counsel asked Hill about meeting at the garage, Hill was unclear and contradicted himself, thus rendering his account unreliable. Hill's attorney asked why he went to the garage, and Hill said, "I was hoping to see Cannarozzo. He wanted to see me." Minutes later, counsel asked if Cannarozzo instructed him to go to the garage, and Hill answered, "No, he just said, 'I'm going to the garage.'" On cross-examination, Hill said, "I was supposed to meet him there." Then, about a minute later during cross-examination, Hill said, "I didn't say I was supposed to meet him there. You're putting words in my mouth."

Hill's testimony about drinking at The Vic Tavern that day was also unreliable. Hill maintained during direct and cross-examination that he took one shot during his first visit to the bar, then only a sip of beer during his second visit to the bar. For instance, during cross-examination, counsel referenced Hill's job responsibilities and stated, "You did all that and you drank at least twice." Hill responded, "Once. I didn't have another shot like you say. I took a sip of beer." However, the videos clearly show that Hill took a shot at 11:49:20 a.m., 11:54:54 a.m., and again upon his return to the bar at 1:25:38 p.m.

Indeed, most of Hill's testimony was contradictory and not supported by the evidence. As another example, Hill very clearly stated at the start of his testimony that, since he's been employed at the DPW, he's never started any jobs before 9:00 a.m. From 7:00 to 9:00 a.m., he and the crew go to the store, get coffee, and wait to start work until "after school goes in." Yet, during cross-examination, Hill denied making the comment about the store and coffee: "no, I didn't say that"; and he added, "I never said we started at 9:00 a.m. that day." Also, during cross-examination, Hill gave a different version of his interaction with Cannarozzo at The Vic Tavern: "Cannarozzo walked into the Vic and said, 'You're supposed to be working and you're here drinking.' He shouldn't have come in there screaming at me." Hill testified earlier in the hearing that Cannarozzo spoke to him – not screamed – and didn't mention anything about drinking.

Hill's attorney attempted to explain Hill's behavior by suggesting that he may have a drinking problem, but Hill's testimony was very vague on this point. Hill never stated at hearing that he's an alcoholic or has a drinking problem. He gave no information about his history or experiences with alcohol whatsoever. When asked during direct-examination about drinking on December 6, 2022, Hill simply said it was a mistake. On cross-examination, Hill admitted that he never asked any city supervisor or official for help or to go to rehab.

The most Hill said about drinking was that he allegedly asked for rehab at his disciplinary hearing on February 21, 2023, and was ignored. However, he also claimed that he was not allowed to speak at that hearing. It is highly unlikely that Hill was "not allowed" to speak at his disciplinary hearing, as Hill acknowledged that he was represented by counsel.

Given this discussion of facts and Hill's lack of credibility, I **FIND** that on December 6, 2022, Hill drank three shots of alcohol and spent a total of thirty-five minutes at The Vic Tavern barroom during work hours. Indeed, Hill made two visits to the bar that day, and the second visit was after his supervisor told him, "You shouldn't be here." After drinking alcohol during both visits to the bar, Hill drove away in his work truck. Hill was not on his lunch break during either visit, as he signed out of work at 2:00 p.m., thereby taking lunch from 2:00 to 3:00 p.m. After he was caught, Hill falsely denied drinking and texted an offensive message

to his supervisor. He was loud and belligerent at the follow-up meeting with the Superintendent and Director, prompting the Director to end the meeting early and send Hill home. Hill never admitted to his employer or during testimony that he's an alcoholic or has a drinking problem. The first time that Hill admitted to having any drinks at all on December 6, 2022 was at this hearing on April 10, 2025, well over two years later.

### **CONCLUSIONS OF LAW**

Public employees' rights and duties are governed and protected by the provisions of the Civil Service Act, N.J.S.A. 11A:1-1 to 12-6, and the regulations promulgated under the Act, N.J.A.C. 4A:1-1.1 to 4A:2-6.2. Public employees may be disciplined for a variety of offenses involving their employment, including the general causes for discipline as set forth in N.J.A.C. 4A:2-2.3(a). Major discipline may include removal of the public employee from his position. N.J.A.C. 4A:2-2.2(a).

In appeals concerning major disciplinary action, the appointing authority bears the burden of proof. N.J.A.C. 4A:2-1.4(a). The burden of proof is by a preponderance of the evidence, In re Phillips, 117 N.J. 567, 575 (1990), and the hearing is de novo, Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980). The evidence must be such as to lead a reasonably cautious mind to a given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). One can describe preponderance 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).

#### **Charge 1 - Incompetency, Inefficiency or Failure to Perform Duties**

A public employee may be subject to major discipline for "incompetency, inefficiency or failure to perform duties." N.J.A.C. 4A:2-2.3(a)(1). In this type of breach, an employee performs his or her duties, but in a manner that exhibits insufficient quality of performance, inefficiency in the results produced, or untimeliness of performance, such that his or her performance is substandard. See Clark v. N.J. Dep't of Agric., 1 N.J.A.R. 315 (1980). Failure to exercise appropriate judgment is also a basis for removal of an employee in a

sensitive position that requires public trust in that judgment. In re Herrmann, 192 N.J. 19, 36-38 (2007).

In this case, Hill failed to perform his duties on December 6, 2022. He was at The Vic Tavern barroom drinking alcohol when he was supposed to be working for the City of Bayonne. Therefore, I **CONCLUDE** that Hill violated N.J.A.C. 4A:2-2.3(a)(1) and is subject to discipline.

#### Charge 2 – Insubordination

Under N.J.A.C. 4A:2-2.3(a)(2), an employee may be subject to discipline for insubordination. The Civil Service Act does not define insubordination; however, case law generally interprets the term as the refusal to obey an order of a supervisor. See, e.g., Belleville v. Coppla, 187 N.J. Super. 147 (App. Div. 1982); Rivell v. Civil Serv. Comm’n, 115 N.J. Super. 64 (App. Div.), certif. denied, 59 N.J. 269 (1971). The term “insubordination” refers to acts of non-compliance, non-cooperation, and affirmative acts of disobedience. Stanziale v. County of Monmouth Bd. of Health, 350 N.J. Super. 414 (App. Div. 2002), certif. denied, 174 N.J. 361 (2002).

In this case, Hill’s supervisor, Cannarozzo, caught Hill drinking at a bar when he was supposed to be working. Cannarozzo told Hill, “You shouldn’t be here.” In response, Hill sent Cannarozzo an offensive text message, and he also returned to the very same bar – and drank more alcohol – only about one hour later while still on the clock. These were blatant acts of disobedience. Therefore, I **CONCLUDE** that Hill violated N.J.A.C. 4A:2-2.3(a)(2) and is subject to discipline.

#### Charge 3 - Conduct Unbecoming a Public Employee

Under N.J.A.C. 4A:2-2.3(a)(6), an employee may be subject to discipline for conduct unbecoming a public employee. Conduct unbecoming a public employee has been interpreted broadly as conduct that adversely affects the morale or efficiency of a governmental unit or that tends to destroy public respect for governmental employees and confidence in the delivery of governmental services. Karins v. City of Atl. City, 152 N.J. 532,

554 (1998); see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). It is sufficient that the complained-of conduct and its attending circumstances “be such as to offend publicly accepted standards of decency.” Karins, 152 N.J. at 555 (quoting, In re Zeber, 398 Pa. 35, 43 (1959)). Such misconduct need not “be predicated upon the violation of any particular rule or regulation but may be based merely upon the violation of the implicit standard of good behavior.” Hartmann v. Police Dep’t of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992) (quoting Asbury Park v. Dep’t of Civil Serv., 17 N.J. 419, 429 (1955)).

In this case, Hill was sitting at a bar drinking shots in the middle of his shift wearing his city-issued work vest. This undoubtedly destroys public respect for municipal employees. The public cannot have confidence in public employees who are drinking on the job, especially when those employees drive city vehicles and operate heavy machinery. Therefore, I **CONCLUDE** that Hill committed conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6) and is subject to discipline.

#### Charge 4 – Neglect of Duty

Under N.J.A.C. 4A:2-2.3(a)(7), an employee may be subject to discipline for neglect of duty. Generally, neglect of duty means that an employee has failed to perform and act as required by the description of their job title. Briggs v. Dep’t of Civ. Serv., 64 N.J. Super. 351, 356 (App. Div. 1960); In re Kerlin, 151 N.J. Super. 179, 186 (App. Div. 1977). “‘Duty’ intends conformance to ‘the legal standard of reasonable conduct in the light of the apparent risk.’” Wytupeck v. Camden, 25 N.J. 450, 461 (1957) (internal citation omitted).

In this case, Hill’s conduct was particularly unreasonable in light of the apparent risk. His job duties included operation of heavy machinery and city vehicles. Thus, drinking alcohol during work hours was especially neglectful. Therefore, I **CONCLUDE** that Hill violated N.J.A.C. 4A:2-2.3(a)(7) and is subject to discipline.

#### Charge 5 – Misuse of Public Property

Under N.J.A.C. 4A:2-2.3(a)(8), an employee may be subject to discipline for misuse of public property, including motor vehicles.

In this case, Hill drove his city-issued motor vehicle while under the influence of alcohol. Therefore, I **CONCLUDE** that he violated N.J.A.C. 4A:2-2.3(a)(8) and is subject to discipline.

#### Charge 6 - Other Sufficient Cause

Under N.J.A.C. 4A:2-2.3(a)(12), an employee may be subject to discipline for other sufficient cause. Other sufficient cause is typically considered a catchall category that addresses violations of department rules and policies. See In re Hairston, No. A-3758-17T4 (App. Div. March 26, 2019) (slip op. at 13).

In this case, the Bayonne Employee Handbook, Article 51(II)(B)(vi), states that "possession or being under the influence of alcohol" while on duty is cause for disciplinary action, including discharge from employment. Therefore, I **CONCLUDE** that Hill violated N.J.A.C. 4A:2-2.3(a)(12) and is subject to discipline.

#### Penalty

Once a determination is made that an employee has violated a statute, regulation or rule concerning his employment, the concept of progressive discipline must be considered. W. New York v. Bock, 38 N.J. 500 (1962). However, where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual's disciplinary history. Henry, 81 N.J. at 580. Indeed, progressive discipline may be bypassed when the misconduct is severe, when it renders the employee unsuitable for continuation in the position, or when the application of progressive discipline would be contrary to the public interest. Herrmann, 192 N.J. at 33. Progressive discipline may be bypassed "especially when...the misconduct causes risk of harm to persons or property." Ibid.

In this case, Hill has a disciplinary history, but his misconduct on December 6, 2022 was also severe. As to prior discipline, Hill was suspended in 2017 for driving a city-issued vehicle without a license, damaging another vehicle, and disobeying an order from the



Superintendent not to drive a city vehicle. Hill also misused a city vehicle in the instant situation. He operated his work vehicle under the influence of alcohol. He did it twice in one day, even after his supervisor caught him drinking at a bar. In addition to driving, Hill's job duties included operating heavy machinery, such as large chainsaws, sometimes at great heights. As such, his drinking, along with recent and past misuse of city vehicles, created a safety risk to himself, fellow employees, and the public. His denial and disrespect toward his supervisors trying to address these issues only exacerbated the problem. Therefore, I **CONCLUDE** that Hill's misconduct rendered him unsuitable for continuation in his position and he must be terminated.

### **ORDER**

Based upon my findings of fact and conclusions of law, I **ORDER** that Hill is **TERMINATED** from his employment as Tree Maintenance Worker and this case is **DISMISSED**.

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. 40A:14-204.

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, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO 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.

April 21, 2025

\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
**ANDREA PERRY VILLANI, ALJ**

Date Received at Agency:

April 21, 2025

Date Mailed to Parties:

April 21, 2025

APV/sej

**APPENDIX**

**WITNESSES**

**For Appellant:**

Sean Hill

**For Respondent:**

Joseph Cannarozzo

Thomas Cotter

**EXHIBITS**

**Joint**

J-1 Memo re: November 16, 2022 verbal reprimand

J-2 Hill's March 20, 2023 handwritten appeal

**For Appellant:**

P-1 Tree Maintenance Worker job specification

P-2 Receipt from The Vic Tavern

**For Respondent:**

R-1 Preliminary Notice of Disciplinary Action

R-2 Final Notice of Disciplinary Action

R-4 Correspondence from Joseph Cannarozzo to Thomas Cotter

R-5 Text Message from Sean Hill to Joseph Cannarozzo

R-6 Memo re: December 7, 2022 meeting with Sean Hill

R-7 City of Bayonne Employee Handbook

R-8 AFSCME Contract

R-9 Videos

R-10 Prior discipline