

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200

Boston, MA 02114

(617) 979-1900

TODD J. HAND,
Appellant

v.

TYNGSBOROUGH HOUSING AUTHORITY,
Respondent

Docket Number:

D1-23-189

Appearance for Appellant:

Todd J. Hand, *pro se*

Appearance for Respondent:

Cassandra S. Fuller, Esq.
Morgan, Brown & Joy, LLP
200 State Street, Suite 11A
Boston, MA 02109

Commissioner:

Angela C. McConney, Esq.

SUMMARY OF DECISION

The Civil Service Commission upheld the Tyngsborough Housing Authority's decision to terminate a maintenance employee based on his disciplinary history, which included continued insubordination and inappropriate conduct.

DECISION

On October 25, 2023, the Appellant, Todd J. Hand (Mr. Hand or Appellant), filed a timely appeal with the Civil Service Commission (Commission) pursuant to G.L. c. 31, §§ 41-

43 and G.L. c. 121B, § 29.¹ The appeal challenged the November 29, 2023 decision of the Tyngsborough Housing Authority (THA or housing authority) to terminate his employment (after an October 26, 2023 Section 41 hearing). As reasons therefor, the THA cited Mr. Hand's 1) insubordination, 2) creation of a hostile work environment, and 3) inappropriate workplace conduct.

The Commission held a remote pre-hearing conference on March 25, 2024. I held an evidentiary hearing on April 8, 2024 at the Commission's offices located at 100 Cambridge Street, Suite 200, Boston, MA, with two American Sign Language (ASL) interpreters present via video conference.² The ASL interpreters, duly sworn, signed simultaneously so that Mr. Hand could have comprehensive interpretation. Mr. Hand attended the hearing with his advocate Joseph Mellen.³

At the April 8, 2024 evidentiary hearing, Mr. Hand objected repeatedly to the presence of online ASL interpreters. Both Mr. Hand and Mr. Mellen kept signing with the two ASL interpreters out of turn while I was speaking or it was another person's turn to speak. I repeatedly asked the ASL interpreters to inform both men (1) to stop interrupting the evidentiary hearing, after I reminded them that the hearing was a formal proceeding, and (2) that

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 C.M.R. §§ 1.01, et seq., apply to adjudications before the Commission with G.L. c. 31, or any Commission rules, taking precedence.

² Mr. Hand is hearing impaired and requested an in-person American Sign Language (ASL) interpreter for his proceedings before the Commission. The Commission first scheduled the hearing for April 5 and 8, 2024 at the Armand P. Mercier Community Center in Lowell, MA. The parties and the Commissioner were present on April 5, 2024, but the ASL interpreter could not attend in person. It was difficult to conduct the hearing with an online interpreter at that location, so the Commission continued the matter to take place at the Commission's offices on April 8, 2024.

³ Mr. Mellen is also hearing impaired, but communicated and spoke on Mr. Hand's behalf.

they would have a turn to speak. Mr. Mellen also verbally interrupted the proceedings.

The parties offered opening statements. THA called its first witness, Melinda Theide, the Executive Director. While Ms. Theide was testifying, Mr. Mellen threw the Exhibit Book down on a table, and yelled, “It’s a lie!” Mr. Hand declined to cross examine her.

THA called its second witness, Thomas McCormack, the Maintenance Supervisor. Mr. Hand and Mr. Mellen grew increasingly more agitated during the witnesses’ testimony, and walked out of the hearing while Mr. McCormack was testifying. Diane Wojcik, Administrative Assistant and the Respondent’s third witness, did not have the opportunity to testify. Mr. Hand never presented his case. The abbreviated hearing was recorded digitally, and copies provided to the parties on April 9, 2024.⁴

On April 9, 2024, the THA filed a Motion to Dismiss/Motion for Summary Decision based on Mr. Hand’s failure to prosecute his appeal and/or failure to state a claim upon which relief could be granted. 801 C.M.R. §§ 1.01(7)(g)(2), 1.01(7)(g)(3), 1.01(7)(h). I denied the motion, and issued a Procedural Order on April 9, 2024 giving the parties the opportunity to submit post-hearing briefs. 801 C.M.R. § 1.01(10)(c).

On May 10, 2024, THA submitted a post-hearing brief, whereupon the administrative record closed.

FINDINGS OF FACT

I admitted fourteen (Exhibits 1-14) exhibits submitted by the Respondent into evidence.

⁴ Should there be a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. In such cases, the plaintiff in the judicial appeal must transcribe the transcript from the Commission’s official recording.

I also admitted the Appellant's appeal to the Commission as Exhibit 15. Based on the documents submitted and the testimony of the following witnesses:

Called by the Tyngsborough Housing Authority:

- Melinda Theide, Executive Director
- Thomas McCormack, Maintenance Supervisor

and taking administrative notice of all pleadings filed in the case, pertinent rules, statutes, regulations, case law, and policies, and drawing reasonable inferences from the credible evidence, I make the following findings of fact:

1. The Tyngsborough Housing Authority (THA or housing authority) hired Todd J. Hand, one of its residents, as a maintenance employee in 2011. (Exhibit 1; Testimony of Theide)

2. At all relevant times, there were four housing authority employees: Executive Director Melinda Theide, Administrative Assistant Diane Wojcik, Maintenance Supervisor Thomas McCormack, and Mr. Hand. (Testimony of Theide)

3. The housing authority manages two separate properties in Tyngsborough: a property located at Brinley Terrace and one other located at Red Pine Terrace. The residences are limited to the low-income elderly or the "non-elderly handicapped."

<http://www.tyngsboroha.org/Properties>

4. Mr. Hand was assigned to perform the maintenance work at the Brinley Terrace property and accessed tenants' units when necessary to make repairs or perform maintenance. (Exhibit 14; Testimony of Theide)

5. The housing authority was aware that Mr. Hand was hearing-impaired before hiring him. No one at the housing authority knew ASL or communicated with Mr. Hand in that language. Throughout his employment, Mr. Hand communicated with his co-workers or the

housing authority tenants by reading lips and speaking verbally. (Testimony McCormack, Testimony of Theide)

6. Mr. Hand communicated with his co-workers via Face Time or texting on his work-issued iPhone. (Testimony McCormack, Testimony of Theide)

7. Mr. Hand began exhibiting performance and behavioral issues in January 2019 after the housing authority hired Mr. McCormack as the Maintenance Supervisor. (Testimony of Theide)

Mr. Hand's Disciplinary History

8. On May 24, 2022, Mr. Hand entered Ms. Theide's office and began yelling that she had failed to order the necessary gasket to repair the "weed whacker". When Ms. Theide said that she had ordered the parts as informed, Mr. Hand said that she had been ill-advised. After she conferred with Mr. McCormack, Ms. Theide determined the correct gasket and placed the order. (Exhibit 5; Testimony of Theide)

9. In a short while, Mr. McCormack informed Ms. Theide that Mr. Hand said that he had no work to do. After receiving a text from Ms. Theide informing him that there was work to be done, Mr. Hand entered her office and let her know that he was working in the garage. When Ms. Theide asked what he was working on, Mr. Hand said, "I'm tired of this bullshit, I'm going home!" When Ms. Theide informed him that he would not be paid for the rest of the day if he left, Mr. Hand grabbed some items from his desk, stormed out the door, and drove his truck at an excessive speed through the parking lot before returning to the housing authority office. He then reentered the office, and yelled, "You will pay for this! You better watch your back!" He then reversed the truck at excessive speed, and drove off, squealing his tires. (Exhibit 5; Testimony of Theide)

10. Ms. Theide texted Mr. Hand that his behavior amounted to insubordination, and in addition to not being paid for the rest of the day, he would be suspended for two days without pay. (Exhibit 5; Testimony of Theide)

11. Mr. Hand served his suspension on Wednesday, May 26 and Thursday, May 27, 2022. (Exhibit 5; Testimony of Theide)

12. Ms. Theide issued a disciplinary letter on June 1, 2022 letter, documenting Mr. Hand's conduct and the ensuing two-day suspension. Within the letter, she also directed that Mr. Hand attend an anger management class during working hours, as a condition for his continued employment. The housing authority would also underwrite the cost of the class and provide an ASL interpreter to attend the class with Mr. Hand. (Exhibit 5; Testimony of Theide)

13. Ms. Theide concluded:

Please note that any other subsequent act of insubordination; rude, threatening, and/or disrespectful behavior; or other unprofessional conduct will result in further disciplinary actions, up to and including termination of employment.

(Exhibit 5)

14. Mr. Hand never participated in the anger management class. (Exhibit 5; Testimony of Theide)

15. On June 29, 2022, Ms. Theide learned that Mr. Hand had yelled at a housing authority tenant and had a heated confrontation with Mr. McCormack later when questioned about his conduct. Mr. Hand then went into an empty unit where he threw and banged things around. (Exhibit 6; Testimony of Theide)

16. On June 30, 2022, Ms. Theide issued Mr. Hand a warning letter, advising him that "[w]e have had this conversation before and you were told to control your anger." Further,

Ms. Theide stated, “This resident is now very afraid of you.” (Exhibit 6; Testimony of Theide)

17. On December 8, 2022, Ms. Theide observed Mr. McCormack cleaning the air purifiers. When she asked Mr. Hand why Mr. McCormack was performing that work instead of him, he said that no one had asked him to. Ms. Theide asked Mr. Hand how long he had worked for the housing authority. After he said thirteen years, Ms. Theide said that was long enough to know his job, and that she and Mr. McCormack should not have to tell him what to do. (Exhibit 7; Testimony of Theide)

18. When Ms. Theide then questioned why Mr. Hand was ordering more outlet covers after she had already ordered two boxes, he said that Mr. McCormack had said to place the order. When Ms. Theide asked Mr. McCormack, he said that Mr. Hand had told him that more were needed. (Exhibit 7; Testimony of Theide)

19. Mr. Hand stormed out of Ms. Theide’s office, calling her “a bastard.” (Exhibit 7; Testimony of Theide)

20. Ms. Theide issued Mr. Hand a second warning letter that same day, dated December 8, 2022. (Exhibit 7; Testimony of Theide)

September 19, 2023 Incident

21. On September 19, 2023, Ms. Theide tried to contact Mr. Hand to finish mowing the lawn. Mr. Hand had begun the mowing the previous Friday, but told Ms. Theide that he had other tasks that would take a long time, and that he had to clean the building [Red Pine Terrace]. (Exhibit 8; Testimony of Theide)

22. When Mr. Hand did not answer his phone, Ms. Theide asked Mr. McCormack to complete the job. When Mr. Hand found out that Ms. Theide had assigned this task – normally assigned to him – to Mr. McCormack, Mr. Hand voiced his displeasure and, on his way out,

slammed the door and yelled, “This is bullshit.” (Exhibit 8; Testimony of Theide)

23. When Ms. Theide followed Mr. Hand and told him to go home, he did not answer, and kept walking away. He then finished mowing the lawn in five minutes. After he finished, Ms. Theide asked him why he could not have finished the mowing the previous Friday since it had not taken long. (Exhibit 8; Testimony of Theide)

24. On September 19, 2023, Ms. Theide issued Mr. Hand a third warning letter, stating that this was the second time that he had come into her office and been insubordinate because she had asked him to finish mowing the lawn. (Exhibit 8; Testimony of Theide)

25. Within the September 19, 2023 letter, Ms. Theide advised Mr. Hand that he had yet to take the anger management class as encouraged in the June 1, 2022 disciplinary letter. (Exhibit 8; Testimony of Theide)

26. Ms. Theide was shaken up after this incident. Ms. Theide issued Mr. Hand a second letter in the presence of Mr. McCormack, advising him that because he was sent home for the rest of the day due to insubordination, he would not be paid for those four hours. (Exhibit 9; Testimony of Theide)

27. In a September 20, 2023 letter, Ms. Theide advised Mr. Hand that he was placed on paid administrative leave pending a determination on his employment status due to his recent insubordination and unprofessionalism. She further advised that he was not to return to the premises of the housing authority without her permission. Ms. Theide concluded that Mr. Hand was to remain available during regular business hours while on paid administrative leave. (Exhibit 10)

28. Ms. A, a home health aide, has been serving clients at the housing authority for over twenty years. She detailed in a September 20, 2023 letter that she had observed Mr. Hand

berating Ms. Theide on September 19, 2023, the day before:

[Mr. Hand] ... was using inappropriate language and being very rude and disrespectful to her. I was in the community room and heard all this and was fearful for the office personnel and didn't know if I should go in or just stay put at the table. This is not the first time that I have witnessed this action on his part. I ... have never heard this from any other employee or resident.

(Exhibit 13)

29. Diane Wojcik has been the administrative assistant for the housing authority since July 2018. In a September 21, 2023 letter, she described Mr. Hand's behavior on the job:

... I have witnessed Todd Hand being disrespectful to Melinda Theide ... so many times. He is "rude and constantly using profanity towards her. It doesn't matter what she speaks to him about [,] it always turns it into an argument with lots of yelling. So many times, I'm was [sic] ready to call the police. He scares me when he gets like this. I have witnessed him yelling at tenants. We have tenants at both properties that do not want him in their apartments to do repairs. They always request the other maintenance employee.

Many mornings early in my employment ... He would talk about Melinda, especially being in the position she holds here. He always said that he would like to get her fired and a man should be in that position.

When he [Mr. Hand] gets in one of his moods, we all pay for it. This is a hostile environment to work. We walk on egg shells every day.

(Exhibit 11; Testimony of McCormack)

30. In a September 27, 2023 letter, Mr. McCormack noted that after he was hired in January 2019, Mr. Hand opened his (McCormack's) first (sealed) paycheck, and viewed his personal information and salary. Mr. Hand was upset, stating that Mr. Cormack did not deserve his salary because he didn't know what he was doing, that he had been there longer and deserved the position. He then yelled at Ms. Theide about the matter, walked off the job and went home. (Exhibit 11; Testimony of McCormack)

31. Mr. McCormack further described Mr. Hand as "rude, belligerent, insubordinate, aggressive, antagonistic, intimidating, and overall intolerable to work with," and creating "a

hostile, unproductive work environment.” (Exhibit 11; Testimony of McCormack)

32. Mr. McCormack recalls that Mr. Hand would curse and yell at Ms. Theide, sometimes in the presence of other housing authority employees. When those occasions were in Mr. McCormack’s presence, he remained near out of concern for Ms. Theide’s safety. (Testimony McCormack, Testimony of Theide)

33. Mr. McCormack described how Mr. Hand refused his directives as supervisor, saying that Mr. McCormack was not his boss, and had no right to tell him what to do. Mr. McCormack would find Mr. Hand in an empty unit, watching videos or playing solitaire on his work-issued cell phone. Mr. Hand would complete personal errands on company time, and go to the lavatory for 45 minutes after lunch to use his cell phone for personal use. Mr. Hand’s significant other was a housing authority tenant, and he was discovered in her unit during working hours. (Exhibit 11; Testimony of McCormack)

34. Mr. Hand has damaged housing authority property; he has kicked doors, punched walls and thrown objects. (Exhibit 11; Testimony of McCormack)

35. Mr. Hand’s misbehavior also extended to his contact with the housing authority tenants. He mistreated tenants and disparaged the staff to them to the extent that the tenants preferred that he not repair anything in their units. (Exhibit 11; Testimony of McCormack)

36. As his supervisor, Mr. McCormack believed that Mr. Hand could not be reprimanded effectively, and that the staff had to walk on eggshells around him. (Exhibit 11; Testimony of McCormack)

37. Mr. B, a tenant residing at the Red Pine Terrace property, has a background in carpentry. Before Mr. McCormack was hired, Mr. B would assist Mr. Hand with repairs on the housing authority properties. Mr. B let Ms. Theide know that Mr. Hand worked in a rushed

manner, breaking things and causing the housing authority to spend more money on repairs than necessary. (Exhibit 14)

38. In a September 29, 2023 letter, Mr. B documented that on occasion while conversing with Ms. Theide in the housing authority office, Mr. Hand would interrupt and ask if they were talking about him. Mr. Hand “always went into a rage and would stop me in the parking lot and use profanity and yell[ing] at me to mine [sic] my own business. This went on many times as time went on.” (Exhibit 14; Testimony of Theide)

39. Mr. B used to live at the Brinley Terrace property. He transferred to the Red Pine Terrace, partly because Mr. Hand did not perform Brinley Terrace’s maintenance work. (Exhibit 14)

40. Mr. B returns to Brinley Terrace for his twice-weekly pool game, where his fellow players often complain about Mr. Hand yelling at them. (Exhibit 14)

Section 41 Hearing

41. Ms. Theide issued an October 17, 2023 Contemplated Dismissal and Hearing notice to Mr. Hand based on his 1) insubordination, 2) creation of a hostile work environment, and 3) inappropriate workplace conduct. (Exhibit 4; Testimony of Theide)

42. The Contemplated Dismissal and Hearing letter included notification of a scheduled October 26, 2023 disciplinary hearing.⁵ G.L. c. 31, § 41. (Exhibit 4; Testimony of Theide)

⁵ The housing authority was ready to proceed with the Section 41 disciplinary hearing on October 26, 2023, with an ASL interpreter in person. Mr. Hand appeared and requested a continuance in order to procure legal counsel. The hearing officer continued the matter to November 10, 2023. The hearing officer reminded Mr. Hand to retain counsel in a November 2, 2023 telephone call. (Exhibit 1)

43. The housing authority asked a disinterested hearing officer, Christopher Cridler, Esq. to preside over the Section 41 hearing. (Exhibit 1)

44. Before the November 10, 2023 Section 41 hearing was conducted, Mr. Hand appealed the matter to the Commission on October 25, 2023. (Exhibit 16)⁶

45. Mr. Hand attended the November 10, 2023 hearing with his mother and brother, and represented himself. The housing authority provided two ASL interpreters to assist Mr. Hand. (Exhibit 1; Testimony of Theide)

46. At the hearing, the THA called its other three employees, Ms. Theide, Mr. McCormack and Ms. Ms. Wojcik, and proceeded with its case to show just cause for the termination of Mr. Hand's employment. Mr. Hand did not testify or present any witnesses. (Exhibit 1)

47. The housing authority provided the October 17, 2023 Contemplated Dismissal and Hearing notice; the June 1, 2022, December 9, 2022 and September 19, 2023 disciplinary letters; and the letters from Mr. McCormack, Ms. Wojcik, Ms. A and Mr. B. (Exhibits 1, 11-14)

48. Mr. Cridler issued an undated report, with five findings of fact:

1. Mr. Hand acted in an insubordinate manner toward Ms. Theide on June 1, 2022; December 9, 2022, and/or September 19, 2023 by screaming at, using profanity, and making threats toward Ms. Theide.
2. Mr. Hand's behavior and misconduct at work created a toxic work environment that negatively affected all other THA employees with whom he worked over a span of several years.
3. Mr. Hand displayed inappropriate behavior on more than one occasion by cursing at and yelling at vulnerable THA Brinley Terrace residents with whom he had regular contact, placing said residents in fear for their

⁶ The Commission received Mr. Hand's appeal on October 30, 2023. (Exhibit 16)

persons or property.

4. Mr. Hand violated Mr. McCormack's right to privacy by intentionally opening Mr. McCormack's paycheck.
5. Mr. Hand displayed reckless behavior that put the THA Brinley Terrace residents in fear by driving through the Brinley Terrace neighborhood at an excessive speed.

(Exhibit 1)

49. Mr. Cridler concluded:

Mr. Hand's conduct toward THA staff and the Brinley Terrace residents, as well as his clear insubordination towards Ms. Theide and Mr. McCormack egregiously exceeded what any reasonable person would consider appropriate workplace behavior, and such behavior has no place in a modern work environment.

The hearing officer recommended that the Commission approve the THA's termination of Mr.

Hand. (Exhibit 1)

50. In a November 21, 2023 letter, Ms. Theide advised Mr. Hand that the THA's Board of Commissioners (Board) would meet in a November 29, 2023 executive session to vote on whether accept the hearing officer's recommendation. (Exhibit 3; Testimony of Theide)

51. Mr. Hand attended the November 29, 2023 executive session with his brother. After a lengthy review of the Section 41 hearing and the hearing officer's recommendation, the Board voted to terminate Mr. Hand's employment, effective immediately. (Exhibit 2; Testimony of Theide)

52. The Board also prohibited Mr. Hand from entering the housing authority office or any tenants' units other than those of his mother and his significant other. (Mr. Hand was no longer a resident of the property.) (Testimony of Theide)

53. On the next day, November 30, 2023, Ms. Theide sent Mr. Hand notice of his

termination, the Board's conditions, health insurance and unemployment information. (Exhibit 2; Testimony of Theide)

Applicable Law

The Commission's authority in this matter is drawn from G.L. c. 121B, § 29 which provides, in relevant part, that:

No employee of any housing authority, except an employee occupying the position of executive director, who has held his office or position, including any promotion or reallocation therefrom within the authority for a total period of five years of uninterrupted service, shall be involuntarily separated therefrom except subject to and in accordance with the provisions of sections forty-one to forty-five, inclusive, of said chapter thirty-one to the same extent as if said office or position were classified under said chapter.

(emphasis added)

G.L. c. 31, § 43 provides:

If the commission by a preponderance of the evidence determines that there was just cause for an action taken against such person it shall affirm the action of the appointing authority, otherwise it shall reverse such action and the person concerned shall be returned to his position without loss of compensation or other rights; provided, however, if the employee by a preponderance of evidence, establishes that said action was based upon harmful error in the application of the appointing authority's procedure, an error of law, or upon any factor or conduct on the part of the employee not reasonably related to the fitness of the employee to perform in his position, said action shall not be sustained, and the person shall be returned to his position without loss of compensation or other rights. The commission may also modify any penalty imposed by the appointing authority.

An action is "justified" if it is "done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind; guided by common sense and by correct rules of law." *Commissioners of Civil Serv. v. Municipal Ct. of Boston*, 359 Mass. 211, 214 (1971); *Cambridge v. Civil Serv. Comm'n*, 43 Mass. App. Ct. 300, 304 (1997); *Selectmen of Wakefield v. Judge of First Dist. Ct.*, 262 Mass. 477, 482 (1928).

The Appointing Authority's burden of proof by a preponderance of the evidence is

satisfied “if it is made to appear more likely or probable in the sense that actual belief in its truth, derived from the evidence, exists in the mind or minds of the tribunal notwithstanding any doubts that may still linger there.” *Tucker v. Pearlstein*, 334 Mass. 33, 35-36 (1956).

Under section 43, the Commission is required “to conduct a de novo hearing for the purpose of finding the facts anew,” *Falmouth v. Civil Serv. Comm’n*, 447 Mass. 814, 823 (2006) and cases cited. However, “[t]he commission’s task is not to be accomplished on a wholly blank slate. After making its de novo findings of fact, the commission does not act without regard to the previous decision of the [appointing authority], but rather decides whether ‘there was reasonable justification for the action taken by the appointing authority in the circumstances found by the commission to have existed when the appointing authority made its decision’.” *Id.*, 823-24, quoting internally from *Watertown v. Arria*, 16 Mass. App. Ct. 331, 334 (1983) and cases cited.

Analysis

The THA has established by a preponderance of the evidence that it had just cause to terminate Mr. Hand’s employment.

The housing authority is a small operation with four employees managing and running just two properties. One employee of those four, Mr. Hand, caused havoc on the job: placing Ms. Theide, Mr. McCormack, Ms. Wojcik, the housing authority tenants and visitors to the premises in fear. His out-of-control behavior has no place in a modern workplace as it affected quite negatively the efficiency of the housing authority and the health and well-being of coworkers and residents.

The testimony of Ms. Theide and Mr. McCormack was detailed and credible and was buttressed by the administrative record.

Mr. Hand became irate after the housing authority hired Mr. McCormack as the maintenance supervisor and his superior. Mr. Hand followed orders from Mr. McCormack and Ms. Theide at his pleasure; and refused to accept either as his supervisor. Mr. Hand's lack of regard for Mr. McCormack was blatant. He opened Mr. McCormack's first paycheck and expressed his anger that the maintenance supervisor earned more than he did although he was a more recent hire. Mr. Hand used profanity towards Ms. Theide and refused to accept her authority.

Mr. Hand worked in a rushed manner leading to expensive damage on the housing authority properties. He sometimes performed tasks incompletely, at one point leaving a mowing job unfinished over the weekend.

The elderly housing authority tenants were in fear of Mr. Hand, having heard him lose his temper with fellow residents or throwing things around in units. Some tenants preferred to forego maintenance or repair rather than admit him to their units. Mr. Hand also drove his work-issued truck at high rates of speed within the housing authority premises, further scaring the tenants.

Insubordination

The record is replete with examples of Mr. Hand's insubordination to Ms. Theide, the housing authority's executive director. Mr. Hand's behavior appeared to change when Mr. McCormack was hired as the maintenance supervisor and his direct supervisor. He confronted Ms. Theide on a regular basis, refused to follow her directives, left the job before his shift was over, threatened her and used profanity towards her in front of the other housing authority employees. This is documented by the instances of his behavior documented by the disciplinary letters dated June 1, 2022; December 9, 2022; and September 19, 2023.

I find that that the THA has proved by a preponderance of the evidence that Mr. Hand was insubordinate to Ms. Theide.

Hostile work environment

The record supports that Mr. Hand's behavior created a hostile work environment. Staff endured a toxic working relationship with Mr. Hand, "walking on eggshells" around him. Staff had to observe his yelling at Ms. Theide and the tenants. Mr. Hand's working relationship with Mr. McCormack caused the supervisor to develop anxiety and seek medical treatment. Another housing authority employee thought of seeking new employment.

Ms. Theide and Mr. McCormack both testified to Mr. Hand threatening them, and to being in fear of him on occasion. THA witnesses testified that Mr. Hand caused property damage. The testimony was corroborated by contemporaneous written warnings and the discipline meted out to Mr. Hand, as well as letters submitted by non-employees that corroborated Mr. Hand's engagement in inappropriate behavior, especially yelling and using profanities.

As Mr. Crider wrote in his report after the Section 41 hearing, Mr. Hand's conduct toward housing authority staff and residents has no place in a modern work environment.

I find that the THA has proved by a preponderance of the evidence that Mr. Hand engaged in appropriate and unprofessional conduct towards the other employees of the housing authority and created a toxic work environment.

Inappropriate workplace conduct

Some of the housing authority residents were already vulnerable, and it was stressful for them to deal with Mr. Hand's temper. Some tenants asked that Mr. Hand not be dispatched to perform maintenance work in their units. One tenant even moved to the other housing

authority's property to lessen contact with Mr. Hand. It is indisputable that he was on notice of the THA's expectations regarding his behavior yet continued to act contrary to those expectations.

I find that the housing authority had just cause to terminate Mr. Hand for 1) insubordination, 2) creation of a hostile work environment, and 3) inappropriate workplace conduct.

CONCLUSION

It is indisputable that Mr. Hand was on notice of the housing authority's expectations as he was warned in the June 1, 2022 disciplinary letter that future conduct of a similar nature could result in further discipline, up to and including termination.

In light of three written warnings and the two-day suspension, including Mr. Hand's most recent serious September 19, 2023 misconduct, the Tyngsborough Housing Authority's decision to terminate Mr. Hand for the substantial misconduct outlined above is consistent with progressive discipline.

For all the above reasons, the termination appeal of Mr. Hand filed under Docket No. D1-22R-138 is hereby *denied*. I find that the Tyngsborough Housing Authority has proven by a preponderance of the evidence that it had just cause to terminate Todd J. Hand.

Civil Service Commission

/s/ Angela C. McConney
Angela C. McConney
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, McConney and Stein [Markey – Absent]) on October 17, 2024.

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 C.M.R. § 1.01(7)(l), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his/her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:

Todd J. Hand (Appellant)

Cassandra S. Fuller, Esq. (for Respondent)