BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

LUJUANE PLEASANT, Appellant, v. YAKIMA VALLEY COMMUNITY COLLEGE, Respondent.	Case No. SUSP-98-0042 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF THE BOARD

INTRODUCTION

1.1 **Hearing.** Pursuant to RCW 41.64.060 and WAC 358-01-040, this matter came on for a hearing before the Personnel Appeals Board, GERALD L. MORGEN, Vice Chair. Following proper notice to the parties, the hearing was held on February 23, 2000, in the Board Room of Prior Hall on the campus of Yakima Valley Community College in Yakima, Washington. WALTER T. HUBBARD, Chair, and LEANA D. LAMB, Member, reviewed the record and participated in the decision in this matter.

1.2 **Appearances.** Appellant did not appear and no representative appeared on her behalf. Respondent Yakima Valley Community College was represented by Patricia A. Thompson, Assistant Attorney General.

1.3 **Nature of Appeal.** This is an appeal from a disciplinary sanction of a three-day suspension for Appellant working outside of her normal assignment, engaging in a confrontation with her supervisor, and improperly using an instructor's signature stamp.

1.4 **Citations Discussed.** WAC 358-30-170; Baker v. Dep't of Corrections, PAB No. D82-084 (1983); McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987); Countryman v. Dep't of Social and Health Services, PAB No. D94-025 (1995); Rainwater v. School for the Deaf, PAB No. D89-004 (1989).

II. FINDINGS OF FACT

2.1 Appellant LuJuane Pleasant was an Office Assistant 3 and a permanent employee for Respondent Yakima Valley Community College (YVCC). Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 251 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on October 16, 1998.

2.2 By letter dated September 29, 1998, Dr. Linda Kaminski, President of YVCC, notified Appellant of her three-day suspension without pay for insubordination, gross misconduct, mistreatment of fellow workers and/or the public, and neglect of duty. Specifically, Dr. Kaminski alleged that Appellant worked outside of her assignment which lead to a confrontation with Robert Walker, Appellant's supervisor; improperly used an instructor's signature stamp; and made personal, damaging accusations against Mr. Walker. These incidents occurred on August 3 through 5, 1998.

2.3 These incidents were reported to Mark Rogstad, Director of Human Resources. Mr. Rogstad informed Dr. Kaminski of the situation and Dr. Kaminski instructed Mr. Rogstad to conduct an investigation and determine what had occurred. Mr. Rogstad considered statements provided by Appellant and Mr. Walker and met with them on August 5, 1998. Mr. Rogstad provided Dr. Kaminski with a verbal report of his investigation. He then provided Appellant with notice of her pre-disciplinary meeting.

2.4 Mr. Rogstad determined that Appellant:

- Engaged in work outside her normal assignment, and when confronted about such work, responded by inappropriately confronting Mr. Walker in the presence of a student. Additionally, it appeared that she lied to Mr. Walker about going to the Human Resources Office, when, in fact, she was consulting with the student outside the Student Financial Aid Office.
- Requested that a co-worker use an instructor's rubber stamp to approve the disbursement of loan funds to a student in violation of policy.
- Made accusations against Mr. Walker of a personal nature which could have seriously jeopardized his professional and private affairs and which were so serious in nature that Mr. Walker contemplated taking legal action.

2.5 Appellant attended her pre-disciplinary meeting on August 12, 1998, and on August 20, 1998, she provided a written response to the meeting. Dr. Kaminski considered the information presented at the pre-disciplinary meeting, considered Appellant's letter of response and determined that misconduct had occurred and that a three-day suspension was warranted.

III. ARGUMENTS OF THE PARTIES

3.1 Respondent asserts that Appellant committed the offenses set forth in the disciplinary letter and that a three-day suspension is the appropriate level of discipline.

3.2 Appellant did not provide a defense to the charges nor did she dispute the appropriateness of the disciplinary sanction before the Board.

IV. CONCLUSIONS OF LAW

4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter herein.

4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting the charges upon which the action was initiated by proving by a preponderance of the credible

evidence that Appellant committed the offenses set forth in the disciplinary letter and that the sanction was appropriate under the facts and circumstances. WAC 358-30-170; Baker v. Dep't of Corrections, PAB No. D82-084 (1983).

4.3 Insubordination is the refusal to comply with a lawful order or directive given by a superior and is defined as not submitting to authority, willful disrespect or disobedience. Countryman v. Dep't of Social and Health Services, PAB No. D94-025 (1995).

4.4 Gross misconduct is flagrant misbehavior which adversely affects the agency's ability to carry out its functions. Rainwater v. School for the Deaf, PAB No. D89-004 (1989).

4.5 Abuse of fellow employees is established when it is shown that the employee wrongfully or unreasonably treats another by word or deed. Johnson v. Lower Columbia College, PAB No. D93-077 (1994).

4.6 Neglect of duty is established when it is shown that an employee has a duty to his or her employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987).

4.7 Respondent has met its burden of proof that Appellant's behavior constituted insubordination, gross misconduct, mistreatment of a fellow worker, and neglect of duty. Therefore, the disciplinary sanction of a three-day suspension is appropriate, and the appeal should be denied.

V. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of LuJuane Pleasant is denied.

DATED this _____ day of _____, 2000.

WASHINGTON STATE PERSONNEL APPEALS BOARD

_____
Walter T. Hubbard, Chair

_____
Gerald L. Morgen, Vice Chair

_____
Leana D. Lamb, Member

Personnel Appeals Board
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Olympia, Washington 98504