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BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

TIMOTHY FREDERICK,)	Case No. DISM-02-0030
)	
Appellant,)	FINDINGS OF FACT, CONCLUSIONS OF
)	LAW AND ORDER OF THE BOARD
)	
v.)	
)	
OFFICE OF THE SECRETARY OF STATE,)	
)	
Respondent.)	

I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair; GERALD L. MORGEN, Vice Chair; and BUSSE NUTLEY, Member. The hearing was held at the office of the Personnel Appeals Board in Olympia, Washington, on May 7, 2003 and May 8, 2003.

1.2 **Appearances.** Appellant Timothy Frederick was present and was represented by Edward Younglove III, Attorney at Law, of Parr & Younglove, P.L.L.C. Mark Anderson, Assistant Attorney General, represented Respondent Office of the Secretary of State.

1.3 **Nature of Appeal.** This is an appeal from a disciplinary sanction of dismissal for neglect of duty, inefficiency, and insubordination. Respondent alleges that Appellant demonstrated inadequate work performance, failed to perform the minimum requirements of his position, and refused to obey direction from his supervisor.

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2 1.4 **Citations Discussed.** WAC 358-30-170; Baker v. Dep't of Corrections, PAB No. D82-084
3 (1983); McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987); Anane v.
4 Human Rights Commission, PAB No. D94-022 (1995), *appeal dismissed*, 95-2-04019-2 (Thurston
5 Co. Super. Ct. Jan. 10, 1997); Countryman v. Dep't of Social & Health Services, PAB No. D94-025
6 (1995); Aquino v. University of Washington, PAB No. D93-163 (1995); Holladay v. Dep't of
7 Veterans Affairs, PAB No. D91-084 (1992).

8 9 **II. FINDINGS OF FACT**

10 2.1 Appellant was a permanent employee of Respondent Office of the Secretary of State.
11 Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated
12 thereunder, Titles 356 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals
13 Board on April 17, 2002.

14
15 2.2 By letter dated March 15, 2002, Steve Excell, Assistant Secretary of State, informed
16 Appellant of his dismissal effective April 1, 2002. Mr. Excell charged Appellant with neglect of
17 duty, inefficiency, and insubordination. Respondent alleged that Appellant demonstrated
18 inadequate work performance, failed to perform the minimum requirements of his position, and
19 refused to obey direction from his supervisor.

20
21 2.3 At the time of his dismissal, Appellant was a State Senior Archivist in the Division of
22 Archives and Records Management. Appellant's responsibilities included the processing (arranging
23 and describing) of archival records. Appellant began his employment with the Office of the
24 Secretary of State in January 1974 as an Assistant State Archivist. In 1997, he was appointed as a
25 State Senior Archivist for Special Projects.

1
2 2.4 Appellant has been the subject of a prior formal disciplinary action and was charged with
3 neglect of duty, gross misconduct, and willful violation of published employing agency policies or
4 regulations. Appellant was dismissed effective November 15, 1998 for drafting and delivering a
5 letter in the workplace that sexually propositioned a union representative. Appellant appealed that
6 disciplinary sanction, and the Personnel Appeals Board modified the dismissal to a ten-month
7 suspension (Frederick v. Secretary of State, PAB No. DISM-98-0064 (1999)).

8
9 2.5 Since that time, Appellant has received the following:

- 10
- 11 • A January 19, 2001 e-mail directing Appellant to remove an “anti-Ralph Munro” document
12 that was offensive to staff and inappropriately posted on a bulletin board designated for
13 union-related material.
 - 14 • A January 22, 2001 follow-up e-mail denying Appellant’s request to “poll staff” on whether
15 they found the Ralph Munro document offensive, and second notification that he must
16 remove the document from the bulletin board.
 - 17 • A February 1, 2001 e-mail notifying Appellant that the agency was removing the bulletin
18 board because Appellant continued to post inappropriate materials despite prior warnings.
 - 19 • A February 2, 2001 e-mail to Appellant directing him to cease posting documents and to
20 remove his notice about a “bulletin board molester who stole the bulletin board.”
 - 21 • A March 16, 2001 reminder to Appellant to give advance notice when taking leave from
22 work.
 - 23 • An April 3, 2001 e-mail warning Appellant of staff complaints about a poster in his office
24 that contained profanity.

25 2.6 During Appellant’s suspension, his office furniture and equipment were disbursed to other
26 staff. In September 1999, when Appellant returned to work, he was assigned to the “Division of
Developmental Disability – Archival Processing Project.” Appellant requested that all his furniture
and equipment be returned to him. When the agency informed him that they could not comply with
that request, Appellant submitted a request for oak furniture items totaling \$1,805.00 to “bring his
office space up to archives’ office standards.” Appellant also requested that an environmental

1 computer be removed from his office to give him more workspace, a metal door installed to reduce
2 drafts and noise, and the replacement of his computer with a newer model.

3
4 2.7 The agency responded that their budget did not allow for oak furniture, however, suitable
5 used furniture was provided. The agency offered to install an accordion door because Appellant's
6 office size and location could not accommodate a metal door. Appellant declined the accordion
7 door and considered it "unacceptable."

8
9 2.8 Appellant was required to spend 50 percent of his time on "archival processing" (arranging
10 and describing archival records) and 50 percent of his time on "functional analysis." Appellant's
11 overall assignment was to "reduce and refine" the backlog of archival records. On December 1,
12 1999, Appellant submitted a work plan and estimated that he could process at a rate of 12 cubic feet
13 per week (12 boxes). An 11-step instruction procedure sheet was created along with a sample of
14 how the work was to be done. Some of the tasks outlined in the instruction sheet included locating
15 and retrieving cartons for processing, discarding duplicates, compiling inventory lists, attaching
16 new labels, and keying information into the Gencat computer program. The agency believed that
17 Appellant's estimate of 12 boxes per week was a low production rate, but acceptable. Therefore,
18 Appellant's performance expectation was to complete a minimum of 12 boxes per week.

19
20 2.9 On February 15, 2000, an ergonomic assessment was completed on Appellant's workspace.
21 As recommended in the assessment, the agency provided Appellant with a new wrist pad, document
22 holder, chair, and computer table.

23
24 2.10 On August 4, 2000, Dave Hastings, Chief of Archival Services and Appellant's supervisor,
25 wrote a memo expressing his concerns about Appellant's failure to meet work expectations. Mr.
26 Hastings instructed Appellant to do brief rather than in-depth functional analysis reports, complete

1 reports in a timely manner, and resume his processing of archival records. Mr. Hastings was
2 concerned because Appellant was processing approximately 12 boxes per month rather than 12
3 boxes per week. Mr. Hastings also reminded Appellant to discard (weed) non-archival records
4 because it was apparent that Appellant had not accomplished much weeding.

5
6 2.11 On September 7, 2000, Mr. Hastings wrote another memo to Appellant expressing concerns
7 about Appellant's failure to meet work expectations. Mr. Hastings instructed Appellant to keep his
8 functional analysis reports brief and timely and directed him to resume the processing and weeding
9 of archival records.

10
11 2.12 On April 2, 2001, Mr. Hastings once again wrote a memo addressing Appellant's failure to
12 prepare brief and timely functional analysis reports. Mr. Hastings also addressed Appellant's
13 failure to construct the file folders in a useful way and his failure to process more than 7 cubic feet
14 of archival records during the prior eighteen months, despite expectations for completion of 12
15 cubic feet per week. Therefore, Mr. Hastings informed Appellant that he would no longer be
16 assigned to do functional analysis and would begin processing archival records full-time. Mr.
17 Hastings also reminded Appellant that he was expected to weed non-archival materials and
18 provided weeding guidelines for Appellant.

19
20 2.13 On May 3, 2001, Appellant requested a larger office because he needed more space to
21 process archival materials on a full-time basis. Since there was no large office space available, the
22 agency was unable to accommodate Appellant's request. In addition, the agency compared
23 Appellant's workspace with others doing similar work. Appellant's office space was as large or
24 larger than his colleagues.

1
2 2.14 On June 12, 2001, the State Archivist at that time, Phil Coombs, wrote a letter of reprimand
3 to Appellant regarding his inadequate work performance and uncooperative attitude. Mr. Coombs
4 confirmed that Appellant would no longer be assigned to functional analysis tasks due to his failure
5 to follow Mr. Hastings' directions and instructions, and he expressed his concern about Appellant's
6 failure to cooperate with his supervisor's directives. Mr. Coombs instructed Appellant to perform
7 his future processing of archival records in a timely fashion while adhering to the assigned
8 procedures for the project. Mr. Coombs also wrote:

9
10 As to your attitude, the list of incidents is quite long. It includes your derogatory comments
11 about Don Whiting and Ralph Munro, which greatly upset many employees; refusal to
12 follow leave request policies; refusal to follow purchasing procedures; refusal to perform an
13 assigned inventory task; posting and circulating objectionable material; unauthorized use of
14 agency copying machines; unauthorized contacts and interviews with outside government
15 officials and the media; sleeping on the job; and a surly and uncommunicative attitude
16 toward your supervisor which has resulted in the need to carry out all communications to
17 you in writing.

18 Mr. Coombs ended his letter by stating that "future incidents of misconduct may result in further
19 corrective /disciplinary action."

20 2.15 On June 21, 2001, Appellant wrote a 19-page response to Mr. Coombs' letter of reprimand.
21 Appellant stated that it would have been "unethical" to follow his supervisor's directives.
22 Appellant also criticized his supervisor's management style and lack of seniority. Appellant
23 informed Mr. Coombs that he owed Appellant an apology, and he pointed out that someone else
24 should assess his work since Mr. Coombs did not have a university degree or certification as an
25 archivist. Appellant requested that Mr. Coombs respond to him in writing, reassign him away from
26 the Archives Section, and periodically stop by to visit and inquire on his status. Appellant also
requested that "the actual working space of [his] assigned office be increased, including the
installation of a door and/or office relocation to a space possessing an office door."

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2.16 On June 25, 2001, Appellant wrote a letter to Toni Murray, Human Resources Manager, stating that he was sorry to see that Mr. Coombs “was setup [sic] as high as he was, (newboy [sic] on the block – without archival training).” Appellant requested the letter be placed in his personnel file.

2.17 On August 8, 2001, Appellant sent a memo to Mr. Hastings with his explanations of why he was not arranging the archival files, weeding them, or naming them as instructed. Since Appellant was still not following his directions, Mr. Hastings responded on August 9, 2001 and once again reiterated his previous instructions.

2.18 On August 13, 2001, Appellant sent a memo to Mr. Hastings requesting that his computer be hooked up to the Gencat Server to assist him in locating archival records. On that same day, Mr. Hastings contacted the appropriate staff to make arrangements for Appellant’s computer to be connected to Gencat.

2.19 On September 18, 2001, Mr. Hastings sent another reminder to Appellant that he was expected to process 12 boxes per week. Mr. Hastings informed Appellant that his performance would be reviewed in approximately one month and appropriate action would follow.

2.20 In October 2001, Diana Bradrick, Deputy State Archivist, prepared a report after reviewing Appellant’s work. Ms. Bradrick found that Appellant had not followed directions, failed to weed non-archival material, had not accomplished adequate quality work, and his rate of production was poor.

1
2 2.21 On November 5, 2001, Mr. Hastings sent Appellant a six-week work performance plan in an
3 attempt to assist him in improving his performance. Mr. Hastings reported that Appellant had
4 processed 56 boxes between June 13, 2001 and September 30, 2001, which was far below the rate
5 of 12 boxes per week. Mr. Hastings also reported that Appellant had not been weeding and labeling
6 as instructed. The six-week performance plan included an arrangement for Appellant, Mr.
7 Hastings, and Ms. Bradrick to meet every Monday for six weeks to discuss progress and address
8 any problems that Appellant may be having. During those meetings, it was stressed to Appellant
9 that he needed to increase his rate of work and follow his supervisor's instructions.

10
11 2.22 On November 6, 2001, Mr. Hastings began to locate boxes for Appellant. This arrangement
12 was made at Ms. Bradrick's request in an attempt to increase Appellant's production rate even
13 though all other staff members located and retrieved their own archival boxes.

14
15 2.23 On November 16, 2001, Ms. Bradrick spent the day with Appellant at his request. On that
16 day, Appellant processed archival materials without spending any time locating and retrieving
17 boxes or keying computer entries. Appellant was successful in accomplishing the quantity of work
18 expected of him, however, he reported to Ms. Bradrick that he hated the work and could not
19 maintain work performance at that pace.

20
21 2.24 During December 2001, the environmental computer was removed from Appellant's office.
22 In addition, his computer was upgraded to a newer version of Windows, however, the upgrade
23 caused the computer to frequently lock up.

24
25 2.25 During the first four weeks of the performance plan, Appellant processed an average of 3.25
26 boxes per week. During the fifth week, Appellant and Mr. Hastings met with Jerry Handfield, State

1 Archivist, to resolve a disagreement with the labeling process, and Appellant processed seven boxes
2 that week. During the sixth week, Appellant processed 13 boxes. Since his completion rate had
3 improved, the agency decided to extend the performance plan by three additional weeks to ascertain
4 whether he could achieve and maintain the expected 12 boxes per week. However, Appellant was
5 not able to work at the expected level. Appellant averaged five boxes per week during the next two
6 weeks.

7
8 2.26 On January 16, 2002, Mr. Hastings completed an evaluation of Appellant's progress during
9 the performance plan. Mr. Hastings reported that Appellant demonstrated an increase in his
10 production and an improvement in the quality of his work, however, both increases were not
11 sufficient to bring Appellant's work to a satisfactory level. Mr. Hastings concluded that
12 Appellant's rate and quality of work was unacceptable and he had shown a lack of initiative. Mr.
13 Hastings stated that at no time had Appellant met the goals expected from a professional archivist in
14 his position.

15
16 2.27 Following receipt of Mr. Hastings' evaluation of Appellant's progress, Steve Excell,
17 Assistant Secretary of State and Appellant's appointing authority, determined that disciplinary
18 action was necessary. On January 22, 2002, Mr. Excell informed Appellant in writing that he was
19 contemplating disciplinary action up to and including dismissal due to his failure to perform the
20 minimum requirements of his position. Mr. Excell offered to meet with Appellant to give him an
21 opportunity to respond. During the week prior to Appellant's scheduled meeting with Mr. Excell,
22 Appellant produced approximately 11 boxes, however, Mr. Hastings concluded that the quality of
23 his work still remained unacceptable.

24
25 2.28 On January 31, 2002, Appellant met with Mr. Excell. Appellant reported that he felt the
26 work performance expectations of his supervisor and Mr. Handfield were unrealistic. Appellant

1 stated that his inadequate work environment contributed to his inability to meet performance
2 expectations. Appellant claimed that he had been subjected to inequitable treatment because he was
3 the only employee that performed processing on a full-time basis in the Archives Section.
4

5 2.29 On February 10, 2002, Ms. Bradrick reported the following in an e-mail:

6
7 Attached is my log of meetings with Tim [Appellant] in which he indicates he physically
8 cannot do the work. As you can probably tell from these notes, Tim [Appellant] had two
9 issues, his physical workspace was inadequate, and the work is “mind numbingly boring.”
10 However, when I pointed out that if his productivity was influenced by his boredom I would
11 have expected to see a decrease in productivity over time, he had no response. I also asked
12 if he could improve productivity if I improved his working conditions or gave him more
13 interesting work part of the time and he repeatedly said no, it couldn’t physically be done.
14

15
16 Ms. Bradrick also reported that Appellant acknowledged that he understood the work and knew
17 what he needed to do. Ms. Bradrick reiterated to Appellant the need for greater speed in
18 processing his work.
19

20 2.30 The agency arranged for Mr. Jerry Handfield, State Archivist; Rand Jimerson, Director of
21 the School of Archives; Diana Shenk, Northwest Regional Archivist; and Susan Fahey, Senior
22 Archivist in the Northwest Region, to review Appellant’s work. All the reviewers reported that
23 Appellant’s work was inadequate both in quantity and quality. Ms. Shenk and Ms. Fahey reported
24 that there were significant problems in how Appellant’s work was processed and most of it would
25 have to be re-done.
26

27 2.31 In the latter part of February 2002, a new computer was installed in Appellant’s office.

1 2.32 After meeting with Appellant on January 31, 2002, Mr. Excell reviewed Appellant's
2 responses. Mr. Excell was not convinced by Appellant's statement that the work performance
3 expectations of his supervisor and the Mr. Handfield were unrealistic. Mr. Excell determined that
4 the work performance expectations were reasonable and that Appellant's co-workers were being
5 held to the same standards.

6
7 2.33 Mr. Excell was not convinced by Appellant's response that his inadequate work
8 environment contributed to his inability to meet performance expectations. Mr. Excell concluded
9 that every effort was made by the agency to accommodate Appellant and address his work
10 environment complaints. Further, after examining his work environment, Mr. Excell determined
11 that the work environment issues had no bearing on Appellant's ability to perform his duties.

12
13 2.34 Mr. Excell was not convinced by Appellant's claim that he had been subjected to inequitable
14 treatment because he was the only employee that performed processing on a full-time basis in the
15 Archives Section. Mr. Excell determined that past employees had performed processing full-time
16 with satisfactory results.

17
18 2.35 Mr. Excell decided that clear and reasonable expectations regarding quantity and quality of
19 work were provided to Appellant, and he concluded that Appellant failed to meet the performance
20 expectations in spite of the agency's repeated attempts to assist him. Mr. Excell determined that the
21 agency had been responsive and patient and clearly wanted Appellant to succeed in his position.
22 Mr. Excell determined that Appellant's unsatisfactory performance, both in terms of quantity and
23 quality, had been an on-going problem with no improvement, and Appellant's responses when he
24 was given direction on how to do the work assigned to him had ranged from uncooperative and
25 resistant to outright refusal.

26

1 2.36 Appellant's performance had improved in the area of production for short periods of time,
2 but the quality of work did not improve enough to meet minimum levels of performance. Further,
3 Mr. Excell considered how Appellant's co-workers consistently performed processing at higher
4 production levels with a satisfactory quality of work unlike Appellant. Mr. Excell also considered
5 the fact that Appellant should have been able to perform the work with his education, training, and
6 experience.

7
8 2.37 Mr. Excell decided that Appellant did not provide any mitigating or convincing explanation
9 for his inadequate work performance, failure to perform the minimum requirements of his position,
10 and refusal to obey direction from his supervisor. Mr. Excell concluded that Appellant's actions
11 constituted neglect of duty, inefficiency, and insubordination.

12
13 2.38 In determining the level of discipline, Mr. Excell reviewed Appellant's personnel file and
14 his performance evaluations. He considered the reviews of Appellant's work by Mr. Handfield, Mr.
15 Jimerson, Ms. Shenk, and Ms. Fahey. Mr. Excell also considered the adverse impact that
16 Appellant's performance had on his co-workers and the agency. Mr. Excell determined that
17 Appellant's failure to satisfactorily perform his duties was not acceptable and he decided that
18 substantial disciplinary action was necessary. Although it was a difficult decision considering
19 Appellant's length of time with the agency, Mr. Excell concluded that termination was the
20 appropriate sanction based on Appellant's history.

21 22 **III. ARGUMENTS OF THE PARTIES**

23
24 3.1 Respondent argues that clear and reasonable expectations regarding quantity and quality of
25 work were provided to Appellant. Respondent asserts that Appellant failed to meet his performance
26 expectations in spite of the agency's repeated attempts to assist him. Respondent contends that

1 everything possible was done to assist Appellant in being a successful employee. Respondent
2 argues that Appellant's complaints about his work environment were addressed by the agency to
3 make sure his needs were met, even though the work environment issues had no bearing on his
4 ability to perform his duties. Respondent asserts that Appellant had a history of being
5 uncooperative with his superiors. Respondent contends that Appellant should have been able to
6 perform his job duties based on his education, training, and experience. Respondent argues that
7 since Appellant's dismissal, the Archiving staff has spent 900 hours reviewing his work, fixing his
8 work, and weeding ten boxes of non-archival material that Appellant should have eliminated.
9 Respondent asserts that termination was the appropriate sanction in this case and asks the Board to
10 uphold that decision by the appointing authority.

11
12 3.2 Appellant argues that his work environment issues, including lack of adequate workspace,
13 ill-functioning computer, and lack of connection to the Gencat server, all affected his ability to meet
14 performance expectations. Appellant asserts that it took the agency approximately one year to
15 address the work environment issues and his performance improved as the issues were resolved.
16 Appellant contends that he was the only archivist not connected to the Gencat Server. Appellant
17 argues that it took the agency two years to remove the environmental computer from his office and
18 he needed the additional space in order to effectively accomplish his work. Appellant asserts that
19 he was the only archivist processing archival records on a full-time basis. Appellant contends that
20 he made an estimate of how many boxes he could process prior to understanding how complex the
21 project actually was, and that 12 boxes per week was not reasonable. Appellant argues that his
22 project was the largest and most complex collection in the Washington State archival records.
23 Appellant asserts that the complexity of the project impacted his productivity. Appellant argues
24 that the quality of his work has not been criticized before and his last performance evaluation was
25 positive. Appellant asserts that he was not neglectful of his duties, inefficient, or insubordinate.

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2 **IV. CONCLUSIONS OF LAW**

3
4 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter.

5
6 4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting
7 the charges upon which the action was initiated by proving by a preponderance of the credible
8 evidence that Appellant committed the offenses set forth in the disciplinary letter and that the
9 sanction was appropriate under the facts and circumstances. WAC 358-30-170; Baker v. Dep't of
10 Corrections, PAB No. D82-084 (1983).

11
12 4.3 Neglect of duty is established when it is shown that an employee has a duty to his or her
13 employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't
14 of Social & Health Services, PAB No. D86-119 (1987).

15
16 4.4 Inefficiency is the utilization of time and resources in an unproductive manner, the
17 ineffective use of time and resources, the wasteful use of time, energy, or materials, or the lack of
18 effective operations as measured by a comparison of production with use of resources, using some
19 objective criteria. Anane v. Human Rights Commission, PAB No. D94-022 (1995), *appeal*
20 *dismissed*, 95-2-04019-2 (Thurston Co. Super. Ct. Jan. 10, 1997).

21
22 4.5 We conclude that the agency's work expectations were clear and reasonable and samples
23 were provided to Appellant of how the work was to be done. Appellant was clearly aware of the
24 expectations set forth by his supervisors, yet he continued to demonstrate inadequate work
25 performance. Appellant clearly failed to meet these work expectations and adequately perform his
26

1 job duties. Respondent has met its burden of proving that Appellant's poor performance constitutes
2 neglect of duty and inefficiency.

3
4 4.6 Insubordination is the refusal to comply with a lawful order or directive given by a superior
5 and is defined as not submitting to authority, willful disrespect, or disobedience. Countryman v.
6 Dep't of Social & Health Services, PAB No. D94-025 (1995).

7
8 4.7 Respondent has met its burden of proving that Appellant was insubordinate by
9 demonstrating a lack of respect and refusing to obey directions by his supervisors. Not only did
10 Appellant's supervisor give him repeated verbal and written instructions as to how to perform the
11 work, he also provided Appellant with samples of how the work should have been done. Appellant
12 failed to follow his supervisor's repeated directives to do brief functional analysis reports and
13 complete them in a timely manner, weed non-archival materials, correctly and properly process
14 archival records, and maintain an adequate rate of production.

15
16 4.8 Although it is not appropriate to initiate discipline based on prior formal and informal
17 disciplinary actions, including letters of reprimand, it is appropriate to consider them regarding the
18 level of the sanction which should be imposed here. Aquino v. University of Washington, PAB No.
19 D93-163 (1995).

20
21 4.9 In determining whether a sanction imposed is appropriate, consideration must be given to
22 the facts and circumstances, including the seriousness and circumstances of the offenses. The
23 penalty should not be disturbed unless it is too severe. The sanction imposed should be sufficient to
24 prevent recurrence, to deter others from similar misconduct, and to maintain the integrity of the
25 program. An action does not necessarily fail if one cause is not sustained unless the entire action
26 depends on the unproven charge. Holladay v. Dep't of Veterans Affairs, PAB No. D91-084 (1992).

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4.10 The agency made reasonable and repeated efforts to provide Appellant with guidance and direction to improve his performance, yet Appellant continually failed to demonstrate any consistent improvement in both the quantity and quality of his work. Furthermore, Appellant had ample opportunity to improve his performance and meet the minimum requirements of his position, and the agency made every effort to address Appellant’s work environment concerns. Appellant’s failure to meet the performance standards required of his position warrants termination. Therefore, Respondent has established that the disciplinary action of dismissal was not too severe and was appropriate under the circumstances presented here. Therefore, the appeal should be denied.

V. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Timothy Frederick is denied.

DATED this _____ day of _____, 2003.

WASHINGTON STATE PERSONNEL APPEALS BOARD

Walter T. Hubbard, Chair

Gerald L. Morgen, Vice Chair

Busse Nutley, Member