A-9

STATE OF NEW JERSEY

In the Matter of Melissa Walker
City of Hoboken, Department of
Transportation and Parking

CSC DKT. NO. 2015-134 *et al.*
OAL DKT. NO. CSV 08959-14 *et al.*

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

ISSUED: MAY 7, 2015 BW

The appeal of Melissa Walker, Parking Enforcement Officer, City of Hoboken, Department of Transportation and Parking, six-working day, eight working day, 10 working day, 30 working day, 60 working day suspensions and removal effective August 8, 2014, on charges, was heard by Administrative Law Judge Gail M. Cookson, who rendered her initial decision on April 13, 2015. Exceptions and cross exceptions were filed.

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Civil Service Commission, at its meeting on May 6, 2015, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending the appellant was justified. However, the Civil Service Commission finds that the action of the appointing authority in removing the appellant was not justified. The Commission therefore modified the removal to a six-month suspension. The Commission therefore affirms that action and dismisses the appeal of Melissa Walker.

Re: Melissa Walker

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
MAY 6, 2015

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
P. O. Box 312
Trenton, New Jersey 08625-0312

Attachment

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
(CONSOLIDATED)

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

OAL DKT. NO.CSV 08959-14
AGENCY REF. NO. 2015-134

OAL DKT. NO.CSV 08961-14
AGENCY REF. NO. 2015-132

OAL DKT. NO.CSV 08963-14
AGENCY REF. NO. 2015-133

OAL DKT. NO.CSV 10526-14
AGENCY REF. NO. 2015-359

OAL DKT. NO.CSV 10527-14
AGENCY REF. NO. 2015-357

OAL DKT. NO.CSV 10644-14
AGENCY REF. NO. 2015-450

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

Stephen R. Nevolis, Esq., for respondent City of Hoboken (Weiner Lesniak, attorneys)

Record Closed: March 16, 2015

Decided: April 13, 2015

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

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Melissa Walker (appellant) appeals from several disciplinary actions taken by her employer the City of Hoboken Department of Transportation and Parking (City) to suspend her from her position as a Parking Enforcement Officer (PEO) for six to sixty days on charges of failure to perform her duties in violation of N.J.A.C. 4A:2-2.3(a)(1); insubordination in violation of N.J.A.C. 4A:2-2.3(a)(2); neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); and other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(11). These suspension actions were soon thereafter followed by a disciplinary charge to remove her as a PEO.

Most of the charges relate directly or indirectly to the responsibility of a PEO to notify a supervisor if, while on the job, twenty minutes passes without the PEO being able to issue a parking ticket (Twenty Minute Policy). Appellant denies the charges and claims that she did her job, that she was given a neighborhood in which it was difficult to find parking violators, and that when called in, supervisors were not available. Appellant also argues in this proceeding that the piling-on of multiple disciplinary actions in a very short period of time was inherently unfair and failed to abide by the letter or spirit of the civil service progressive discipline policy.

Because there are six separately filed appeals, I list them herein for clarity and succinctness, in order of the preliminary notices:

1. On April 16, 2014, a Preliminary Notice of Disciplinary Action was filed seeking to suspend appellant from her position for six days for violating the Twenty Minute Policy on four dates in January. The departmental hearing was conducted on May 12, 2014. Thereafter, a Final Notice of Disciplinary Action was issued on July 8,

2014, sustaining the disciplinary charges and suspending appellant for those six days. [OAL Docket CSV 08963-14]

2. On April 16, 2014, a Preliminary Notice of Disciplinary Action was filed seeking to suspend appellant from her position for eight days for violating the Twenty Minute Policy on three dates in February. The departmental hearing was conducted on May 12, 2014. Thereafter, a Final Notice of Disciplinary Action was issued on July 8, 2014, sustaining the disciplinary charges and suspending appellant for those eight days. [OAL Docket CSV 08961-14]

3. On April 24, 2014, a Preliminary Notice of Disciplinary Action was filed seeking to suspend appellant from her position for thirty days for violating the Twenty Minute Policy on four dates in April. The departmental hearing was conducted on May 12, 2014. Thereafter, a Final Notice of Disciplinary Action was issued on July 8, 2014, sustaining the disciplinary charges and suspending appellant for those thirty days. [OAL Docket CSV 08959-14]

4. On July 8, 2014, a Preliminary Notice of Disciplinary Action was filed seeking to suspend appellant from her position for ten days for violating the sick leave policy on six dates in June and July. No departmental hearing was requested. Thereafter, a Final Notice of Disciplinary Action was issued on July 21, 2014, sustaining the disciplinary charges and suspending appellant for those ten days. [OAL Docket CSV 10527-14]

5. On July 8, 2014, a Preliminary Notice of Disciplinary Action was filed seeking to suspend appellant from her position for sixty days for violating the Twenty Minute Policy on three dates in June and July. No departmental hearing was requested. Thereafter, a Final Notice of Disciplinary Action was issued on July 21, 2014, sustaining the disciplinary charges and suspending appellant for those sixty days.[1] [OAL Docket CSV 10526-14]

[1] The series of disciplinary suspensions had appellant suspended for the sequential working days beginning July 9, 2014, and ending November 24, 2014.

6. On July 21, 2014, a Preliminary Notice of Disciplinary Action was filed seeking to remove appellant from her position for violating the Twenty Minute Policy, being tardy from her dinner break and therefore late for a meeting with her supervisor, thereafter walking off the job without finishing her shift on July 8, 2014. No departmental hearing was requested. Thereafter, a Final Notice of Disciplinary Action was issued on August 8, 2014, sustaining the disciplinary charges and removing appellant from her employment. [OAL Docket CSV 10644-14]

The first three matters were transmitted to the Office of Administrative Law (OAL), on July 15, 2014, for hearing as contested cases pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. After an interim settlement conference of these matters which was unsuccessful, they were assigned to me on August 18, 2014. At that point, counsel advised the settlement judge that the other disciplinary actions and the termination would be forthcoming soon. In fact, the three later cases were filed August 15 and 22, 2014, and also assigned to me. On September 10, 2014, the City filed a substitution of counsel in all the cases. On September 23, 2014, I held the first of several case management conferences telephonically with the parties in which the possibility of a settlement as well as litigation discovery obligations were discussed. Counsel agreed that the matters should be heard and decided together. When the parties were unable to reach a global resolution, we all agreed that the six matters should be **CONSOLIDATED** due to common events, witnesses, claims, defenses, and overlapping penalties. It is so **ORDERED**.

The plenary hearing was held on February 10, 2015. Post-hearing briefs were permitted and the record closed on March 16, 2015, with receipt of the written closing statements as the final submissions.

FACTUAL DISCUSSION

Based upon due consideration of the testimonial and documentary evidence presented at the hearing, and having had the opportunity to observe the demeanor of

the witnesses and assess their credibility, I **FIND** the following **FACTS**:

John Morgan has been the Director of the Department of Transportation for the City for two years. Prior to assuming that position, he was a sales manager for a vendor of on-street parking equipment for seven years. In that private position, the City was a client of the firm for whom he worked. Before that employment, Morgan had been the Director of the parking utility authority for the City of Westfield for four years. As Director for the City, he is responsible for the oversight of parking enforcement, customer service, planning, accounting, livery licenses, food vendor truck licenses, and similar transportation requirements. Morgan supervises a department that has four supervisors, six accountants and thirty-five PEOs.

Morgan explained that appellant was a PEO who worked the second shift from 1:00 p.m. to 9:00 p.m. He remarked that in the City, it was practically unheard of for a PEO to go twenty (20) minutes without finding a parking violation, with the possible exception of areas where construction was being undertaken. There was no quota system in place mandating the writing of parking tickets for PEOs but there was a policy that a PEO who went more than twenty minutes without finding a parking violation was to contact their supervisor using their City-issued Nextel push-to-talk phones. From there, it was up to the supervisor to decide whether to relocate the PEO or provide other suggestions. This Twenty Minute Policy was acknowledged as only a verbal policy by Morgan until May 23, 2014, after the first three disciplinary actions at issue herein, when he drafted a written memorandum covering same.

Morgan also presented an overview of the history and allegations of the several PNDAs that are the subject of these appeals. He also reviewed appellant's prior disciplinary history that largely involved minor disciplinary penalties for lateness with her required shift hours and breaks or abuse of sick time. In November 2013, however,

appellant was issued a five-day penalty for violating the Twenty-Minute Policy.[2] The Director was proud of his general accomplishments for the Department, including instituting the use of badges and uniforms, which he felt lifted the esprit de corps. He was blunt in saying that he was of the opinion that appellant's job performance was bad for the morale of the department.

On cross examination, Morgan elaborated more on his professional background setting forth that he was hired by Westfield to establish a Parking Department separate from its prior enforcement through the Police Department. He also had thirty years of experience in the telecommunications industry in New Jersey Bell and related entities. He admitted that Westfield was not a "civil service" municipality and that he received no training in Hoboken on the civil service system. He only had union experience from his days as a shop steward and union delegate with Bell. Morgan also recalled talking to appellant prior to the issuance of the April PNDAs but he relied on his supervisors to have engaged with her on a more regular basis. Morgan was concerned that appellant had not adjusted her work habits after the first PNDAs although he acknowledged that he would probably have issued only a ninety-day suspension on July 8 for the last set of violations of the Twenty-Minute Policy if she had not stormed out of the meeting and off her shift.

Hector Mojica testified for the City. He is a PEO Supervisor, having served in that capacity for the last three years after being a PEO for thirteen years. He described the three overlapping shifts of PEOs – 8:00 a.m. – 4:00 p.m.; 1:00 p.m. – 9:00 p.m.; 6:00 p.m. – 2:00 a.m. Each shift has between fifteen and seventeen officers. Mojica is the first shift Supervisor and he works Monday through Friday. On Mondays, he is the only Supervisor on duty so he supervises appellant on those days. He would only supervise her otherwise if Robert Orsini was out on leave from his second shift position. The other two shift Supervisors work Tuesday through Saturday.

[2] I note that this establishes that appellant knew of the policy and was forewarned of its breach prior to the charges that issued in 2014.

Because Mojica is on duty in the mornings, it is one of his responsibilities to review the parking ticket reports for each PEO. Any time a PEO writes up a violation, it is recorded from their ticket instrument electronically to the City. In reviewing the reports from the prior day, he would look for any large gaps between tickets. He confirmed that the Twenty Minute Policy had been in place for at least four years since before he became a supervisor. Mojica had informally warned appellant previously but he understood that Orsini had spoken with her more often. He explained the memoranda he drafted that itemized her large gaps of missing time. For example, Thursday, January 2, 2014, particularly stood out because while she clocked in and out for her dinner break, appellant issued no tickets during her entire shift. Appellant was then off on a vacation day on January 3; out sick on Monday, January 6; worked Tuesday, January 7 although she came in late and left early; and then out sick on Wednesday, January 8. On January 7, 2014, Mojica noted that the report indicated that appellant wrote two tickets at 1:37 p.m. and then not any others until she wrote five more between 6:46 and 7:00 p.m. No other tickets were issued by her between 7:00 p.m. and the end of her shift. On January 9, appellant failed to issue any tickets between 1:20 p.m. and 6:56 p.m. (her dinner break would have been within that timeframe), and then between 7:13 p.m. until the remainder of her shift. Yet, she wrote eight tickets between 6:56 p.m. and 7:13 p.m., consistent with the Director's comment that the City is at 110% parking capacity and that it is hard not to find a parking violation.

Similarly large gaps between tickets issued by appellant were revealed on reports reviewed by Mojica during other weeks. These were not technical or minor violations of the Twenty Minute Policy. Included, but not limited to, the violations were –

January 13	3:26 – 6:51	3 hours, 25 minutes
January 14	1:47 – 6:40	3 hours, 53 minutes (net dinner)
	6:48 – 8:33	1 hour, 45 minutes
January 16	1:00 – 2:49	1 hour, 49 minutes
	3:41 – 9:00	4 hours, 19 minutes (net dinner)

February 25	1:45 – 6:47	4 hours, 2 minutes (net dinner)
February 26	2:21 – 6:25	3 hours, 4 minutes (net dinner)
February 28	2:58 – 8:43	4 hours, 45 minutes (net dinner)
April 8	2:42 – 5:13	2 hours, 31 minutes
April 9	1:47 – 6:43	3 hours, 56 minutes (net dinner)
	7:27 – 8:46	1 hour, 19 minutes
April 15	3:06 – 4:58	1 hour, 52 minutes
	7:09 – 9:00	1 hour, 51 minutes
April 16	1:00 – 3:15	2 hours, 15 minutes
June 26	1:00 – 2:30	1 hour, 30 minutes
	3:30 – 7:24	2 hours, 54 minutes (net dinner)
June 27	3:22 – 5:31	2 hours, 9 minutes
July 1	3:12 – 5:27	2 hours, 15 minutes

Mojica confirmed even on cross-examination that a PEO can always reach a dispatcher or the customer service desk if s/he cannot reach a supervisor to report a lack of violations in the area. He clarified that the review of the electronic violation reports was one of his regular duties as the morning supervisor.

Robert Orsini has been a PEO Supervisor for ten years after serving as a PEO for three years. Appellant worked on his supervisory shift. Each time that Mojica reported to him that appellant had had some significant gaps in issuance of tickets from the prior day, Orsini would speak to her and remind her that she needed to call him or another supervisor. Appellant would say that she was on her streets but that there was not much production or she could not reach him. Orsini found that appellant was the only one with these issues as other PEOs would call him regularly if a particular block had an unusual situation preventing parking violations from being found.

Orsini had been in attendance at the meeting with appellant and the Director on July 8, 2014, when she was issued the FNDA on the first three disciplines and was handed two new PNDA. However, he got called out of the meeting in order to address

a citizen complaint and went back in just as she was walking out. He tried to get appellant to finish the remaining two hours of her shift that evening but she refused. On cross examination, Orsini was asked whether something seemed to change with appellant between 2011 and 2014. He was not sure but he thought her son had some new issues with school. At one point, appellant requested to be moved to the first shift but she was low on the union seniority for moving to that position.

The last witness at the hearing for the City was Vivian DeLanzo, the third shift PEO Supervisor. She has five years of experience as a Supervisor and had previously served eight years as a PEO. Her shift commences at 6:00 p.m. so she had not been there very long on July 8 when she was called into the Director's office for the meeting with appellant. She also got called out on an unrelated complaint so she had very little to add to the description of what took place at that meeting.

Appellant testified on her own behalf at this consolidated hearing. She described her usual daily routine for punching in at 1:00 for her shift and then checking the sheet for the route assigned to herself. She would walk or get a ride up to her route, which typically was in the vicinity of 14th and Washington Streets. Appellant described her route as consisting of four to five blocks over toward Hudson and the water, but she also described it as a "U" in shape. Frankly, it was so difficult for me to understand or visualize her territory that I printed out the relevant portion of Hoboken from Google maps and asked her to delineate her area. (A-1) Even then, it was difficult to follow her description of which cross streets were within her route.

Appellant did not contest the applicability of the Twenty Minute Policy but stated that her area had a lot of handicapped spots that do not result in violations for over-staying the meter. Appellant also contended that she would always contact one of the supervisors when she could not locate violations but that she either did not get an answer or she would be advised to just "stay on your route." The supervisors would never come out to the route to suggest modifications. There might have been one time when Orsini actually came into her neighborhood when she called. Appellant found the

Nextel phones hard to rely upon because the "chirp" would not go through if someone else was speaking with that individual.

Appellant recalled the July 8, 2014, meeting at the Director's office. Morgan was explaining the FNDAs and the new PNDAs. She admits that she got angry and walked out but she was shocked at being told she would be suspended without pay and then that there would be still more time without pay.

On cross examination, appellant explained that the police officers often ticketed double-parked cars before the PEOs could get to them. She said that she would call Orsini using her own cell phone rather than the Nextel and would be able to leave him message or text. Orsini had on occasions pulled her aside to reinforce the policy and warn her about the issues. She made him aware of the problems she had with her son and her desire to switch to the first shift. Appellant would reach out to Orsini perhaps once over the course of several hours. She insisted that she never sat down and would even walk outside her route to find parking violations to write up.

ANALYSIS AND CONCLUSIONS OF LAW

The Civil Service Act, N.J.S.A. 11A:1-1 to -12.6, governs a public employee's rights and duties. The Act is an important inducement to attract qualified personnel to public service and is liberally construed toward attainment of merit appointments and broad tenure protection. Essex Council No. 1, N.J. Civil Serv. Ass'n v. Gibson, 114 N.J. Super. 576 (Law Div. 1971), rev'd on other grounds, 118 N.J. Super. 583 (App. Div. 1972); Mastrobattista v. Essex County Park Comm'n, 46 N.J. 138, 147 (1965). Governmental employers also have delineated rights and obligations. The Act sets forth that it is State policy to provide appropriate appointment, supervisory and other personnel authority to public officials so they may execute properly their constitutional and statutory responsibilities. N.J.S.A. 11A:1-2(b).

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

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

Based upon the facts set forth above, I **FIND** that the respondents' witnesses were more credible and their testimony was entitled to more weight than the denials of appellant, at least with respect to her job duties, her understanding of those duties, and the productivity of her assignment. Appellant's protestations that her assignment route and blocks made it difficult for her to find parking violations were not credible. Setting

aside the very generic statement of respondent's witnesses that one could easily find parking violations in Hoboken, what is more objectively telling is that appellant had no difficulty finding lots of parking violations on most days, or even during the portions of the days that are at issue herein.

Other than the fourteen (14) dates alleged over the period of January until early July 2014, there are no allegations that appellant did not write enough tickets (there was no quota requirement) or that she went hours without writing any. Appellant was writing up violations just minutes apart when she was in fact writing up violations. If her route was the problem because of handicapped exceptions or police officers beating her to cars double-parked, it would have been expected that her days would more consistently fall short. Instead, it was just particular, discrete periods of days that occurred during particular calendar weeks in January, February and April that were charged based upon the objective time logs. Moreover, as demonstrated above, the gaps were very large indeed.

I **CONCLUDE** that appellant was not credible with her excuses for the large gaps of time when she claimed she tried to call her supervisor but would otherwise just keep walking around. The preponderance of the credible evidence demonstrates that it was more likely than not that appellant experienced the occasional shortage of daycare or babysitting rather than a shortage of violators along her assigned route. I can only speculate on the present record that she likely went home to check on her children. This conclusion is buttressed by the ticketing pattern illustrated during many short periods of time as well as appellant's stated desire to be moved to a better shift for her child's needs.

Having concluded that substantial violations of the Twenty Minute Policy occurred, I must determine the proper penalty or discipline to be assessed. A system of progressive discipline has evolved in New Jersey to serve the goals of providing employees with job security and protecting them from arbitrary employment decisions. Progressive discipline is considered to be an appropriate analysis for determining the

should be addressed by progressively increasing penalties. It underscores the philosophy that an appointing authority has a responsibility to encourage the development of an employee's potential.

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

In this case, I **CONCLUDE** that that the timeline of these disciplinary actions supports the appellant's argument that she was not given a chance to improve her performance. Essentially, the length of the suspensions over the course of these PNDAs put form over substance and was a charade of progressive descipline. The City could and should have merged the first three PNDAs into one disciplinary action insofar as they were all issued in April and heard on May 12, 2014. If the management was too busy to bring appellant up on discrete charges in February or March, then it should not have proceeded to split hairs and multiply the actions in April.

Furthermore, without explanation as to why it took two months to issue the FNDAs on these first three charges, appellant was noticed and served with those documents all on July 8, 2014. At that same time, the City issued her two more PNDAs. It is entirely understandable that an employee would overreact to receiving three FNDAs and two new PNDAs at the same meeting. On that point, I am of the opinion that the City handled this personnel issue poorly and in a manner that was unfair to appellant and a violation of progressive discipline.

Accordingly, I **CONCLUDE** that the issuance of separate suspensions of six, eight, ten, thirty, and then sixty days as five separate PNDAs in, for all intents and purposes, two bunches – one in April and one in July -- did not abide the letter or the spirit behind the progressive discipline scheme. I **CONCLUDE** that the proper balance between management's need to enforce legitimate policies in the workplace and appellant's right to be forewarned of management's expectations warrants a reduction of the removal action to a six-month suspension. I will not modify the lengths of the various suspension segments on the recognition that the City could have imposed thirty, sixty and ninety day PNDAs in lieu of the actions it took.

Therefore, I **CONCLUDE** that appellant should have been suspended beginning July 9, 2014, and ending on May 23, 2015. Subject to final agency action and any appeals, appellant should be entitled to return to and be retrained for her employment as a PEO for the City of Hoboken. Thereafter, appellant is fully forewarned that she must comply with all work policies on meals, breaks, leave time, and the Twenty Minute Policy if she wants to keep her public employment.

ORDER

Accordingly, it is **ORDERED** that the six disciplinary actions entered in the six Final Notice of Disciplinary Action of the City of Hoboken, Department of Transportation and Parking against appellant Melissa Walker are hereby **AFFIRMED IN PART AND MODIFIED IN PART**. It is further **ORDERED** that the penalty imposed for these disciplinary actions shall stand except with respect to the penalty of removal which shall be reduced to a six month (6) month suspension for a cumulative suspension ending on May 23, 2015, subject to final appeals. It is further **ORDERED** that counsel fees should not be awarded to the appellant.

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

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

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

April 13, 2015

DATE

Gail M Cookson

GAIL M. COOKSON, ALJ

Date Received at Agency:

Date Mailed to Parties: APR 15 2015

Laura Sanders

DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

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APPENDIX

LIST OF WITNESSES

For Appellant:

Melissa Walker

For Respondent:

John Morgan
Hector Mojica
Robert Orsini
Vivian Delanzo

LIST OF EXHIBITS IN EVIDENCE

For Appellant:

A-1 Google Map of Parking Route

For Respondent:

R-1 PNDA for 6 day suspension, dated April 16, 2014, with attachments and report by Hector Mojica

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

R-3 Amended FNDA for 6 day suspension, dated July 8, 2014

R-4 PNDA for 8 day suspension, dated April 16, 2014, with attachments and report by Robert Orsini

R-5 Amended FNDA for 8 day suspension, dated July 8, 2014

R-6 PNDA for 30 day suspension, dated April 24, 2014, with attachments and Robert Orsini Report

R-7 Amended FNDA for 30 day suspension, dated July 8, 2014

R-8 Memo from Robert Orsini regarding Walker's Sick Days, dated June 23, 2014

R-9 City of Hoboken Employee Handbook Sick Leave Policy
R-10 Hoboken Municipal Employee's Association CBA
R-11 PNDA dated July 8, 2014 for 10 day suspension
R-12 FNDA dated July 21, 2014 for 10 day suspension
R-13 July 7, 2014 memo from Robert Orsini with attachments
R-14 PNDA dated July 8, 2014 for 60 day suspension
R-15 FNDA dated July 21, 2014 for 60 day suspension
R-16 July 8, 2014 email from Robert Orsini to Gina Dedio and John Morgan
R-17 July 16, 2014 memo from Robert Orsini to John Morgan regarding meeting that took place on July 8, 2014
R-18 City of Hoboken Employee Handbook Meal Break Policy
R-19 PNDA dated July 21, 2014 for removal
R-20 FNDA dated August 8, 2014 for removal
R-21 May 8, 2013 Minor Discipline one day suspension for coming to work late
R-22 June 7, 2013 Minor Discipline three day suspension for coming to work late
R-23 July 18, 2013 Minor Discipline five day suspension for leaving route early without advising a supervisor
R-24 August 5, 2013 Minor Discipline written warning for taking a sick day without any sick time available
R-25 November 6, 2013 Minor Discipline five day suspension for failing to abide by the 20 minute policy