



STATE OF NEW JERSEY

In the Matter of Stephan Pitts,
Camden County, Department of
Public Works

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2024-587
OAL Docket No. CSV 09662-23

ISSUED: JANUARY 15, 2025

The appeal of Stephan Pitts, Road Repairer 2, Camden County, Department of Public Works, removal, effective August 31, 2023, on charges, was heard by Administrative Law Judge Nicole T. Minutoli (ALJ), who rendered her initial decision on December 19, 2024. Exceptions were filed on behalf of the appellant and a reply to exceptions was filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, including a thorough review of the exceptions and reply, the Civil Service Commission (Commission), at its meeting on January 15, 2025, adopted the ALJ's Findings of Facts and Conclusions of Law and her recommendation to uphold the removal.

As indicated above, the Commission has reviewed the appellant's exceptions in this matter and finds them wholly unpersuasive. The Commission makes the following comment. The Commission agrees with the ALJ's determinations regarding the charges, which were substantially based on her assessment of the credibility of the testimony of the witnesses. In this regard, the Commission acknowledges that the ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.*, 149 N.J. 108 (1997). "[T]rial courts' credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted by the record." *See also, In re Taylor*, 158 N.J. 644 (1999) (quoting *State v. Locurto*, 157 N.J. 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra*). The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has

the authority to reverse or modify an ALJ's decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. *See N.J.S.A. 52:14B-10(c); Cavalieri u. Public Employees Retirement System*, 368 *N.J. Super.* 527 (App. Div. 2004). The Commission finds no persuasive evidence in the record or in the appellant's exceptions to demonstrate that the ALJ's credibility determinations, or her findings and conclusions based on those determinations, were arbitrary, capricious or unreasonable. Accordingly, the Commission finds affirms those determinations and the findings and conclusions made therefrom.

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

In this matter, the Commission agrees with the ALJ that, given the appellant's misconduct and his prior disciplinary history, which includes two prior major disciplinary actions received not long before the current infractions, that removal comports with the tenets of progressive discipline and supports the appellant's removal from employment.

ORDER

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

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 15TH DAY OF JANUARY, 2025

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
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

OAL DKT. NO. CSV 09662-23

AGENCY DKT. NO. 2024-587

**IN THE MATTER OF STEPHAN PITTS,
CAMDEN COUNTY DEPARTMENT
OF PUBLIC WORKS.**

William B. Hildebrand, Esq., for appellant, Stephan Pitts (Law Offices of William B. Hildebrand, attorney)

Brandon Hawkins, Assistant County Counsel, for respondent, Camden County Department of Public Works (Emeshe Arzón, Camden County Counsel, attorney)

Record Closed: November 4, 2024

Decided: December 19, 2024

BEFORE **NICOLE T. MINUTOLI, ALJ:**

STATEMENT OF THE CASE

Appellant Stephan Pitts (Pitts) appeals the decision of respondent Camden County Department of Public Works (County) to remove him from his position as a road repairer for alleged violations of N.J.A.C. 4A:2-2.3(a)(2), insubordination; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(7), neglect of duty; and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause, specifically, violation of the County's

Mandatory Training Sessions Policy #312 (Policy #312). Pitts denies the charges and asserts that the County failed to meet its burden of proving them. Should the County's removal of Pitts be sustained? Yes. The County established by a preponderance of the competent, relevant, and credible evidence that Pitts committed the offenses by failing to comply with the County's training mandate and leaving work without permission.

PROCEDURAL HISTORY

On June 7, 2023, the County served Pitts with a Preliminary Notice of Disciplinary Action (PNDA), charging him with violations of N.J.A.C. 4A:2-2.3(a)(2) (insubordination); N.J.A.C. 4A:2-2.3(a)(6) (conduct unbecoming a public employee); N.J.A.C. 4A:2-2.3(a)(7) (neglect of duty); and N.J.A.C. 4A:2-2.3(a)(12) (other sufficient cause, specifically, violation of Policy #312). Following a departmental hearing on August 22, 2023, the County issued a Final Notice of Disciplinary Action (FNDA) on August 31, 2023, sustaining all charges against Pitts and issuing his removal effective same day.

On September 13, 2023, Pitts filed an appeal with the Civil Service Commission (CSC). On September 21, 2023, the CSC transmitted the matter to the Office of Administrative Law, where it was filed for determination as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -23.

On August 26, 2024, the parties appeared for an in-person hearing, during which testimony was taken and documents were admitted into evidence. The hearing concluded the same day, and the record remained open for the parties to obtain transcripts and submit post-hearing briefs. I received both parties' post-hearing briefs on November 4, 2024, and the record closed.

FACTUAL DISCUSSION AND FINDINGS

The County alleges that Pitts acted insubordinate and violated Policy #312 by failing to sign off on his compliance with all policies and procedures. The County also alleges that on June 7, 2023, Pitts acted insubordinately, exhibited unbecoming conduct, and neglected his duties. Based on both allegations, the County issued an FNDA

charging Pitts with violations of N.J.A.C. 4A:2-2.3(a)(2) (insubordination); N.J.A.C. 4A:2-2.3(a)(6) (conduct unbecoming a public employee); N.J.A.C. 4A:2-2.3(a)(7) (neglect of duty); and N.J.A.C. 4A:2-2.3(a)(12) (other sufficient cause, specifically, violation of Policy #312). Each allegation will be examined in turn.

Mandatory Training Sessions Policy #312

From September 2013 through June 7, 2023, Pitts worked for the Camden County Department of Public Works in Lindenwold, New Jersey, as a Road Repairer 2. (R-1 at 1.) He is part of a five-person crew that maintains the County's roads and sidewalks. Per the County's Policy #312, effective June 17, 2011, all County employees must complete mandatory e-training annually. (1T:12–13.) Policy #312 states in pertinent part:

- C. To the extent practical, an employee who fails to complete mandatory training shall be notified of his/her failure to complete the training and given an opportunity to cure the deficiency.
- D. An employee who continues to not complete mandatory training within the time required, may be subject to disciplinary action, including suspension or termination, for their continued failure to complete mandated training sessions.

[R-4.]

The training is a condition of their employment. (1T:46.) E-training is administered via a computer system called E-Safety training. To complete the training, employees must log onto the computer, watch a video, slide show, or PowerPoint presentation, and then answer multiple-choice questions. The e-training includes the County's Policies and Procedures Manual (PPM) test, which explains safety protocols and employer expectations. (1T:13; 1T:48.) This portion of the e-training lists approximately 200 policies. To complete this portion of the testing, employees must review the list of policies and answer one question, stating, "I confirm that I have completely read and/or viewed and verify that I understand the information presented in this training course." (R-5.) The policy and procedure names are listed numerically with links to the policy or procedure.

The employees can access the policies and procedures through the links, print them, and answer one question at the end. (1T:49.)

From 2014 through 2022, Pitts answered "yes" to the County's PPM test question. (R-8; 1T:52.) On February 28, 2023, Pitts took the County's PPM test and answered "no" to this same question, which the system automatically found to be an incorrect response. (1T:22–23; R-5.) The system notified Pitts that he had failed the County's PPM test. (1T:23.)

On May 26, 2023, Pitts expressed concern about answering this test question with a "yes" and discussed his concerns with the test question with Julia Downes (Downes), Deputy Director of the Camden County Public Works Department. (1T:11; 1T:14; 1T:26.) He explained that there are 132 policies and did not feel he could confidently state that he read and understood them all. (1T:14–15; R-6.) Pitts completed all other mandatory e-training but did not pass the County's PPM test because he answered "no" to the only question. (1T:15; R-5.) Upon answering "no," Pitts was immediately notified by the system that he failed the County's PPM test. (R-5.)

On May 26, 2023, Downes notified the County's Human Resources Department of Pitts' concerns about the one test question. (R-6.) After reviewing the question and consulting with the County's counsel, the one question was revised to address Pitts' concerns as follows:

After reading the memo for this training, I am aware that all of Camden County Policies currently in effect can be accessed through the SharePoint intranet employee portal on Camden County Today. I can copy and paste the link from the training into the web browser to access the policies which can also be obtained by logging into Camden County Today where required in some offices.

I am aware that I can print a copy of the County's policies from the employee portal. I understand that it is my responsibility to read and comply with all the policies. I understand that if I have questions, at any time, regarding any policy or provision, it is my responsibility to seek clarification, in writing, from my immediate supervisor, Department Head, or Human

Resources. I also understand that these policies are continually evaluated and may be amended, modified, or terminated at any time.

[R-7.]

Pitts was provided another opportunity to retake the County's PPM test. (1T:26.) On June 1, 2023, he retook the test and answered "false" to the revised question. (R-7.) Upon answering "false," the computer system automatically notified Pitts that his answer was incorrect, and he failed the PPM test. (1T:23; 1T:56; R-7.) Pitts could take the test as many times as needed to pass until the June 1 deadline. (1T:34; 1T:37.) Pitts testified that he would not change his answer if he retook the PPM test. (1T:111.) The PPM test must be successfully completed for an employee to complete e-training. (1T:33.) If an employee does not complete e-training, the outstanding training will appear on the employee's dashboard in the E-Safety system. (1T:57.)

June 7, 2023, incident

On June 7, 2023, Pitts reported to work at approximately 5:33 a.m. for his 6:00 a.m. to 2:30 p.m. shift. (1T:78.) When he arrived, he submitted a leave request to his supervisor for five hours of vacation that same day.¹ Pitts explained that he needed to leave early to pick up his son from his mother's house because his mother, who watched Pitts' son while he was at work, had an appointment. (1T:101–102.) Pitts testified that he first learned he had to leave early when he dropped off his son earlier that morning. (1T:102.) Pitts further testified that he did not know the appointment details or when it was scheduled, nor did he ask his mother. (1T:116.)

Robert Harris (Harris), Director of the Camden County Public Works Department, denied Pitts' leave request for operational needs. (R-10.) Harris explained that there was a heavy workload that day, and Pitts' road repair team, usually staffed with five employees, was down three men. Two employees called out sick, and one was out on workers' compensation. (1T:72–73.) The other employee in Pitts' road repair team,

¹ By June 7, 2023, Pitts had exhausted his personal time. Pitts testified that he could not use sick time because he would be required to bring in a doctor's note. (1T:102.)

working on June 7, 2023, also submitted a leave request for June 7, 2023, which Harris denied. (1T:75.)

Harris testified that vacation time should be pre-approved. An employee's leave request can be denied if it is not submitted in advance. (1T:73–74.) Pitts' leave request was not submitted for pre-approval. (1T:73.)

Pitts testified that he requested vacation time on June 7, 2023, because he “had already exhausted [his] personal time and [his] sick time . . . and if you put in for sick time while you are already at work you’re required to bring in a doctor's note when you come back, so [he] wasn’t going to the doctor so [he] wasn’t going to use sick time.” (1T:102.)

Immediately after his leave request was denied, Pitts went to see Harris. Pitts explained to Harris that he had to leave to pick up his son from his mother's house. (1T:77; 1T:104.) Pitts did not state that he had an emergency. (1T:77.) Harris explained to Pitts that his leave request could not be approved due to the pending daily workload. (1T:76.) Pitts then told Harris, “I hear what you’re saying, but I need you to listen to what I’m saying. I have to leave so I’m going to leave.” (1T:106.)

Pitts left the workplace at 9:00 a.m. on June 7, 2023, without permission. (R-11; R-9; 1T:77.)

Credibility

It is the obligation of the finder of fact to assess the credibility of a witness' testimony. Credibility is defined as “the quality that makes something (as a witness or some evidence) worthy of belief.” Black's Law Dictionary 463 (11th ed. 2019). “[C]redibility findings . . . are often influenced by matters such as observations of the character and demeanor of witnesses and common human experience” State v. Locurto, 157 N.J. 463, 474 (1999). It is much more than demeanor alone; credibility “apprehends the over-all evaluation of testimony in the light of its rationality or internal consistency and the manner in which it hangs together with other evidence.” Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963).

During the course of the testimony, I watched closely and listened to each of the witnesses in order to assess their credibility. This includes observing their demeanor while testifying as well as noting the intonation, pitch, speed of response, speech pattern(s), and lack of divisiveness in their responses. Likewise, I compared the contextual part of their answers against the grain of common experience, or, put simply, did it make sense provided the facts and circumstances?

I **FIND** that the County's witnesses, Downes, Brown, and Harris, were credible. They appeared honest while testifying. I observed their demeanor, which included intonation and speed of response. Notably, there was no hesitation in their answers, whether direct or cross-examination. Collectively and individually, the County's witnesses' testimony was consistent and concise. I observed the absence of rambling, evasive, and discursive testimony throughout their time while on the witness stand.

As to Pitts' testimony, I **FIND** it vacillated between generally credible and incredible. For example, answers were provided that were against his own interest, readily given, and inherently credible. For example, Pitts quickly conceded that he arrived at work on June 7, 2023, and requested leave for that day. Leave was denied, and he admitted he impermissibly left work. While truthful, it remains somewhat problematic because no further explanation was provided giving context.

The same veracity cannot be said for all his testimony, though. When asked if he ever had a leave request denied, he testified that he did not for an emergency. I **FIND** this part of his testimony untruthful because, on March 23, 2023, Pitts left work after his leave request was denied. He provided the same rationale, not claiming it was an emergency, and was disciplined for his actions. (R-3.)

Further, after initially voicing concerns, the question was modified as to the PPM test question. Pitts readily conceded he answered "false" but oddly failed to state why. At no point did he explain or even attempt to explain why he answered "false." This is problematic and begs for additional testimony; however, none was forthcoming. While I

cannot find him to be incredible for failing to provide additional testimony on this key fact, it does raise questions that now go unanswered.

Based on the witnesses' testimony, my assessment of its credibility, the documents the parties submitted, and my evaluation of their sufficiency, I **FIND** that Pitts failed the County's PPM test. I **FIND** that Pitts was immediately notified that he failed the County's PPM test through the E-Safety computer system. I **FIND** that Pitts was provided an opportunity to retake the County's PPM test. I **FIND** that Pitts failed the County's PPM test after the question was modified based on his concerns. I **FIND** that Pitts failed to explain why he answered "false" on the modified PPM test question. I **FIND** that Pitts failed to complete the mandatory training sessions by the June 1 deadline. I **FIND** that on June 7, 2023, Pitts disregarded management's directive and left work without permission.

CONCLUSIONS OF LAW

The Civil Service Act, N.J.S.A. 11A:1-1 to -12-6 (Act), and its implementing regulations, N.J.A.C. 4A:1-1.1 to -10-3.2, are designed in part "to encourage and reward meritorious performance by employees in the public service and to retain and separate employees on the basis of the adequacy of their performance." N.J.S.A. 11A:1-2(c). An employee may be subject to discipline for several reasons, including insubordination, N.J.A.C. 4A:2-2.3(a)(2); conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(6); and neglect of duty, N.J.A.C. 4A:2-2.3(a)(7). Major discipline for such infractions may include removal, disciplinary demotion, or suspension for more than five working days at any time. N.J.A.C. 4A:2-2.2(a).

The Act protects classified employees from arbitrary dismissal and other onerous sanctions. See In re Shavers-Johnson, 2014 N.J. AGEN LEXIS 439, Initial Decision (July 30, 2014), adopted, Comm'n, 2014 N.J. AGEN LEXIS 1049 (Sept. 3, 2014); Prosecutor's Detectives & Investigators Ass'n v. Hudson Cnty. Bd. of Freeholders, 130 N.J. Super. 30, 41 (App. Div. 1974); Scancarella v. Dep't of Civil Serv., 24 N.J. Super. 65, 70 (App. Div. 1952). To determine if a penalty is reasonable, the employee's record may be reviewed to determine the appropriate penalty for the current specific offense. "The evidence

presented, and the credibility of the witnesses will assist in resolving whether the charges and discipline imposed should be sustained; or whether there are mitigating circumstances, which . . . must be taken into consideration when determining whether there is just cause for the penalty imposed.” Shavers-Johnson, 2014 N.J. AGEN LEXIS 439, at *44. Major discipline may include suspension or removal, depending upon the incident complained of and the employee’s record. See West New York v. Bock, 38 N.J. 500, 522–24 (1962) (describing progressive discipline).

The issue to be addressed here is whether a preponderance of the credible evidence establishes that Pitts’ actions violate the FNDA’s charges. If so, the question to be addressed is whether the violation warrants removal, as reflected in the FNDA, or another penalty, if any.

The appellant is charged with violating N.J.A.C. 4A:2-2.3(a)(2), insubordination; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(7), neglect of duty; and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause, specifically, violation of Policy #312.

Insubordination

The regulation, which includes “insubordination” as an offense subject to discipline, does not define the term. N.J.A.C. 4A:2-2.3(a)(2). Insubordination is defined in Black’s Law Dictionary 802 (11th ed. 2019) as a “willful disregard of an employer’s instructions” or an “act of disobedience to the proper authority.” Webster’s II New College Dictionary (1995) defines insubordination as “not submissive to authority: disobedient.” Such dictionary definitions have been used by courts to define the term where it is not specifically defined in contract or regulation.

The above definitions incorporate acts of non-compliance, non-cooperation, and affirmative acts of disobedience. Thus, insubordination can occur even where no specific order or direction has been given to the allegedly insubordinate person. Insubordination is always a serious matter. “Refusal to obey orders and disrespect cannot be tolerated.

Such conduct adversely affects the morale and efficiency of the department.” Rivell v. Civil Serv. Comm’n, 115 N.J. Super. 64, 72 (App. Div.), certif. denied, 59 N.J. 269 (1971).

Here, I found that on June 7, 2023, Pitts failed to follow a management directive by leaving work after his leave request was denied. Further, I found that Pitts failed to complete the County’s mandatory training sessions by the June 1 deadline even after his concerns regarding the County’s PPM test question were addressed and the County developed a modified question. Pitts had the opportunity to retake the test but failed again because he did not answer “yes” to the modified question, acknowledging that he was aware of the County’s policies and knew where to access them. The County’s policies and procedures are in place to protect the employees. In this situation, Pitts’ failure to complete the PPM test was an act of defiance, not a lack of understanding or concern. He provided no testimony regarding his concerns about the modified question or why he answered the modified question with a “no.” Therefore, I **CONCLUDE** that the County has proved by a preponderance of the credible evidence that Pitts violated N.J.A.C. 4A:2-2.3(a)(2), insubordination.

Conduct Unbecoming a Public Employee

There is no precise definition for “conduct unbecoming a public employee,” and the question of whether conduct is unbecoming is made on a case-by-case basis. In re King, CSV 02768-02, Initial Decision (Feb. 24, 2003), adopted, Merit Sys. Bd. (Apr. 9, 2003), <http://njlaw.rutgers.edu/collections/oal/>. “Conduct unbecoming a public employee” is an elastic phrase that encompasses conduct that adversely affects the morale or efficiency of a governmental unit or tends to destroy public respect in the delivery of governmental services. Karins v. City of Atl. City, 152 N.J. 532, 554 (1998); see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). It is sufficient that the complained-of conduct and its attending circumstances “be such as to offend publicly accepted standards of decency.” Karins, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)). Such misconduct need not necessarily “be predicated upon the violation of any particular rule or regulation, but may be based merely upon the violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct.” Hartmann v. Police Dep’t of

Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992) (quoting Asbury Park v. Dep't of Civil Serv., 17 N.J. 419, 429 (1955)). Unbecoming conduct may include improper behavior under the circumstances; it may be less serious than a violation of the law, but it is inappropriate on the part of a public employee because it disrupts governmental operations.

Here, I found that Pitts failed to complete the County's mandatory e-training as required under Policy #312. I also found that on June 7, 2023, Pitts disregarded management's directive and left work without permission. I **CONCLUDE** that the County has met its burden of proving that Pitts' violation of the County's Policy #312 and leaving work without permission is conduct unbecoming a public employee, violating N.J.A.C. 4A:2-2.3(a)(6).

Neglect of Duty

To prove neglect of duty, the employer must demonstrate that the employee failed to perform a required task or was negligent in carrying out their responsibilities. According to the County's Policy #312, Pitts must complete his e-training within a certain period. Here, I found that although Pitts was provided with the opportunity, he failed to complete the PPM test, thereby failing to complete the County's mandatory training sessions. Additionally, I found that Pitts disregarded a management directive and left work without permission, neglecting his employee duties. Leaving work without permission can have severe consequences for the employee and the organization. It disrupts workflow, burdens colleagues who must cover the absence, and may damage team morale. Therefore, I **CONCLUDE** that the County has proven by a preponderance of the credible evidence that the appellant violated N.J.A.C. 4A:2-2.3(a)(7), neglect of duty.

Other Sufficient Cause

There is no definition in the New Jersey Administrative Code for other sufficient cause; it is generally defined as all other offenses caused and derived from all other charges against the appellant. There have been cases when the charge of other sufficient cause has been dismissed when "[r]espondent has not given any substance to the

allegation.” Simmons v. City of Newark, 2006 N.J. AGEN LEXIS 68, *113, Initial Decision (Feb. 22, 2006), adopted, Merit Sys. Bd., 2006 N.J. AGEN LEXIS 565 (Apr. 5, 2006).

The County determined other sufficient cause charges are attributable to Pitts’ failure to complete the County’s PPM training in violation of the County’s Policy #312. I found that Pitts failed the County’s PPM test and was immediately notified that he failed the County’s PPM test through the E-Safety computer system. Pitts had an opportunity to retake the County’s PPM test after the County modified the test question. Pitts failed the County’s PPM test after the question was modified. I found that Pitts readily conceded that he answered “false” but oddly failed to state why. At no point did he explain or even attempt to explain why he answered “false.” Therefore, I **CONCLUDE** that Pitts did violate Policy #312 and therefore violated N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause.

PENALTY

When dealing with the question of penalty in a de novo review of a disciplinary action against an employee, it is necessary to reevaluate the proofs and “penalty” on appeal based on the charges. N.J.S.A. 11A:2-19; Henry v. Rahway State Prison, 81 N.J. 571 (1980); Bock, 38 N.J. 500 (1962). Several factors must be considered in determining the appropriateness of a penalty, including the nature of the employee’s offense, the concept of progressive discipline, and the employee’s prior record. George v. N. Princeton Dev. Ctr., 96 N.J.A.R.2d (CSV) 463. According to Bock, progressive discipline concepts involving increasingly severe penalties are used where appropriate. See In re Parlow, 192 N.J. Super. 247 (App. Div. 1983). Major discipline may include suspension, removal, or demotion depending upon the incident complained of and the employee’s record. See Bock, 38 N.J. at 522–24.

The appellant’s prior undisputed disciplinary history from 2017 through 2023 includes a twenty-day suspension, a ten-day suspension, a one-day suspension, and a written warning for charges including insubordination, conduct unbecoming a public employee, and neglect of duty. (R-3.)

Here, the appellant is subject to major discipline for the violations of N.J.A.C. 4A:2-2.3(a)(2), insubordination; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(7), neglect of duty; and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause due to violations of Policy #312. Major discipline for such infractions may include removal, disciplinary demotion, suspension, or fine for more than five working days at any time. N.J.A.C. 4A:2-2.2(a). The respondent removed the appellant from his position due to these charges.

Based upon the totality of the evidence and with due consideration of the appellant's prior disciplinary record, I **CONCLUDE** that the penalty of removal is reasonable, appropriate, and consistent with the policy of progressive discipline.

ORDER

I hereby **ORDER** that the appeal of appellant Stephan Pitts of charges of (1) insubordination in violation of N.J.A.C. 4A:2-2.3(a)(2); (2) conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); (3) neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); and (4) other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12), specifically, violations of Camden County's Mandatory Training Sessions Policy #312, is **DENIED**, and the decision of respondent, the Camden County Department of Public Works, to remove the appellant for violating those charges is **AFFIRMED**.

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, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

December 19, 2024

DATE



NICOLE T. MINUTOLI, ALJ

Date Received at Agency:

Date Mailed to Parties:

NTM/onl

APPENDIX

Witnesses

For appellant

Stephan Pitts

For respondent

Julia Downes

Donnette Brown

Robert Harris

Exhibits

For appellant

None

For respondent

- R-1 Preliminary Notice of Disciplinary Action, dated June 7, 2023
- R-2 Revised Final Notice of Disciplinary Action, dated August 21, 2023
- R-3 Appellant's prior disciplinary actions
- R-4 Mandatory Training Sessions Policy #312, effective February 28, 2023
- R-5 Camden County Policies & Procedures Manual Test Results, Stephan Pitts, February 28, 2023
- R-6 Email from Julia Downes to the Human Resources Department, dated May 26, 2023
- R-7 Camden County Policies & Procedures Manual Test Results, Stephan Pitts, June 1, 2023
- R-8 Stephan Pitts' Policies & Procedures test results, years 2014 through 2022
- R-9 Email from Robert Harris to Donnette Brown, dated June 7, 2023
- R-10 Stephan Pitts, leave request form for vacation time, dated June 7, 2023
- R-11 Stephan Pitts timeclock records, dated June 7, 2023