

day scheduled to move the boxes from the 4th floor, and the other employees were dressed to do this work. Ms. Neely testified further that the moving of boxes was an urgent matter, and Mr. Blair was performing non-critical assignments.

5. Greg Martin was sworn and testified that he is the supervisor of Donnie Blair, and that on April 14, 1994 he told Mr. Blair that he would have to move boxes the next day. Mr. Martin testified that Mr. Blair told him that he (Mr. Blair) didn't think it was part of his job description, so they went down to talk to Ms. Nelly. After discussing it with Ms. Nelly and Mr. Blair, Mr. Martin testified that he thought there would be no problem with Mr. Blair performing the work.
6. Mr. Martin further testified that he directed Mr. Blair to assist with the moving of the boxes on April 15, 1994. Mr. Martin testified that after he returned from his meeting at the Office of Information Systems (OIS) at Silverlake Plaza, that Ms. Neely told him that she had an incident with Mr. Blair in that he had refused a direct order. On examination from the Board, Mr. Martin testified that Mr. Blair's EPPA contained language where grievant was to assist payroll section with monthly disposal of documents/reports to Division of Achieves.
7. Linda Bonham was sworn and testified that she worked for the Division from August, 1989 through June, 1994 for Central Payroll as a State Payroll Supervisor. Ms. Bonham testified that she supervised 4 to 6 payroll technicians, and their job description included lifting and moving boxes. Ms. Bonham further testified that she was familiar with Mr. Blair, that lifting boxes was part of his job description, and Mr. Blair had no problems with his work responsibilities. Ms. Bonham also testified that she was familiar with disposal and removal scheduled for payroll boxes, and that on occasion Mr. Blair would assist them with moving boxes upon request.
8. Donnie Blair, grievant was sworn and testified that he did not believe that it was in his job description to move boxes for every division in the Department, but only his division. Mr. Blair testified that it was in his job description to lift his boxes. On the day in question, Mr. Blair testified, he was finishing his own duties first prior to assisting the payroll employees, as his understanding it was not an urgent thing to do at the time. Mr. Blair testified that he did not refuse to assist the payroll employees, but that he was going to help them when he finished his job duties.
9. On cross examination, Mr. Blair testified that he didn't have a quarrel with the idea that lifting boxes is part of his job description, but that he just did not believe that it was his responsibility to lift everyone's boxes in the entire division. Mr. Blair testified on cross examination that in his letter response he was objecting to having to help Payroll out with lifting boxes, and that on April 15, 1994, the date in question, he did not lift boxes for payroll.

10. On examination by the Board, Mr. Blair testified that he had participated in a meeting on April 14, 1994 with Ms. Neely and Mr. Martin, and Mr. Blair testified he told them "of [he] had the time to assist them [he] would. Mr. Blair further testified that he responded that way because he did not know what may arrive that day.
11. Ms. Neely was recalled, and testified further that she made it clear to Mr. Blair that she was giving him a direct order, and that at that moment in time to go down to payroll and help the payroll section move those boxes to the 4th floor.

FINDINGS OF FACT

12. Donnie Blair, Unit Operations Clerk, Division of Accounting, Department of Revenue, was given a direct order to assist the payroll employees in lifting and moving boxes from Tricie Neely, Deputy Director from the fourth floor of the Thomas Collins Building in Dover, Delaware to a truck parked outside on April 15, 1994.
13. Donnie Blair did not comply with the direct order given because he felt the work assigned was out side of his job description.
14. The job description for Unit Operations Clerk, as incorporated in the FYI 1994 Employee Performance Planning and Appraisal document included the responsibility to "assists (SIC) Payroll Section with monthly disposal of documents/reports (approx. 50-80 boxes) to Division of Achieves. Mr. Blair also admitted that his job description included moving boxes.
15. Donnie Blair willfully failed to follow a direct order constituted insubordination for the incident which occurred on April 15, 1994.

CONCLUSION OF LAW

16. 29 Del. C., Chapter 59 established that Merit System of Personnel Administration. The Rules for a Merit System Personnel Administration were adopted April 25, 1987. 29 Del. C., Ch. 5931 entitled Grievances provides that "[t]he rules shall provide for the establishment of a plan for resolving employee grievances and complaints.
17. Merit Rule 15.0200 entitled Reasons for Disciplinary Action provides that [d]isciplinatory action may be taken for any conduct not in keeping with reasonable standards including but not limited to the following reasons.
18. Merit Rule 15.0204 provides that "[i]nsubordination that constitutes a serious breach of discipline. Insubordinate defiance of authority or refusal to obey proper orders or wanton disregard of directives may warrant dismissal."

ORDER

The grievance is denied. The employer, the State of Delaware Department of Revenue had a sufficient basis for issuing a written reprimand.

IT IS SO ORDERED this 27th day of September, 1995.



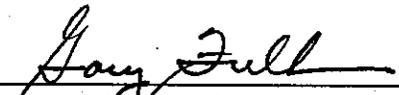
Katy K. Woo, Chairperson



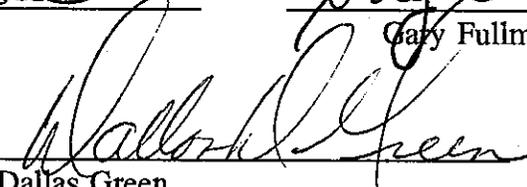
Robert Burns, Vice Chair



Walter Bowers



Gary Fullman



Dallas Green

APPEAL RIGHTS:

Pursuant to 29 Del. C. Seciton 5949 (b), the grievant has a right to appeal to the Superior Court on the question of whether the appointing authority acted in accordance with law. The burden of proof of any such appeal to the Superior Court is on the employee. All appeals to the Superior Court shall be by filing of a notice of appeal wit the Court within 30 days of the employee being notified of the final action of the Board.

ORIGINAL: FILE

Xc: Grievant
Grievant's Counsel
Agency
Agency's Counsel
Board
State Personnel Office (2 copies)

DATE MAILED: September 27, 1995