BEFORE THE MERIT EMPLOYEE RELATIONS BOARD

OF THE STATE OF DELAWARE

IN THE MATTER OF **SHERI ANTONIK** **Grievant,**	)	**DOCKET NO. 96-06-90**
v.	)	**FINDINGS, CONCLUSION**
STATE OF DELAWARE **DEPARTMENT OF PUBLIC SAFETY** **DIVISION OF MOTOR VEHICLES** **Agency.**	)	**AND ORDER**

-PUBLIC EDITION-

BEFORE Katy K. Woo, Chairperson, Robert Burns, Vice Chairperson, Walter Bowers and Dallas Green, Members of the Merit Employee Relations Board, constituting a lawful quorum of the Board pursuant to 29 Del. C. § 5908(a).

APPEARANCES

For the Grievant: Roy S. Shiels, Esquire
Brown, Shiels & Chasanov
108 East Water Street
P. O. Drawer F
Dover, Delaware 19903

For the Department: Elizabeth D. Maron, Deputy Attorney General
Department of Justice
Carvel State Office Building
820 North French Street
Wilmington, Delaware 19899-8911

SUMMARY OF EVIDENCE, FINDINGS AND CONCLUSION

This matter came before the Board for evidentiary hearing on September 5, 1996 having been filed on June 26, 1996 as an appeal after a Fourth Step grievance decision under Merit Rule Nos.

COPY

21.0120 and 20.340. At the request of the Grievant, this disciplinary matter involving a written reprimand by the Division of Motor Vehicles was heard in non-public session after a unanimously adopted motion of the Board to enter into executive session pursuant to 29 Del. C. § 10004(b)(4).

Since this case was presented in executive session of the Board pursuant to 29 Del. C. § 1004(b)(4), the summary of the evidence presented and the findings of the Merit Employee Relations Board, while available for judicial appeal in a non-public version of this decision, are not public records and not therefore available for public inspection.

THE LAW

The applicable Merit Rules for this grievance are Merit Rule No. 15.1 which provides:

> Employees shall beheld accountable for their conduct. Measures up to and including dismissal shall be taken only for just cause. "Just cause" means that the management has sufficient reasons for imposing accountability. Just cause requires:
>
> *showing that the employee has committed the charged offense;
> *offering specified due process rights specified in this chapter; and
> *imposing a penalty appropriate to the circumstances.

and Merit Rule No. 15.2 which provides:

> Employees shall receive a written reprimand where appropriate based on specified misconduct, or where a verbal reprimand has not produced the desired improvement.

CONCLUSION

The Board has weighed the evidence produced by both the Department and the Grievant and has assessed the credibility of the witnesses. Considering the totality of the evidence, three members of the Board are not convinced by a preponderance of the evidence that the Division had just cause,

as that term is defined in Merit Rule 15.1, for imposing a written reprimand under the circumstances presented and are convinced that such cause did not exist.

ORDER

Based upon the foregoing, it is **ORDERED:**

1. That grievance of Sheri Antonik is upheld by the affirmative vote of Vice-Chairperson Burns and Board members Bowers and Green, with Chairperson Woo voting to deny the grievance and to affirm the action of the Agency. Board member Fullman was unavoidably absent.

2. The action of the Division of Motor Vehicles in imposing the written reprimand is reversed, and the written reprimand and all correspondence relating thereto shall be promptly removed from the Grievant's personnel records.

IT IS SO ORDERED

Katy K. Woo, Chairperson

Robert Burns, Vice-Chairperson

Dallas Green, Member

Walter Bowers, Member

APPEAL RIGHTS

29 Del. C. § 5949 provides that the appointing authority shall have a right of appeal to the Superior Court on the question of whether the appointing authority acted in accordance with the law. The burden of proof of any such appeal to the Superior Court is on the appointing authority. All appeals to the Superior Court are to be filed within thirty (30) days of being notified of the final action of the Board.

Mailing Date: October 18, 1996

MMT:bfo

Distribution:
Original: File
Copies: Grievant's Representative
Agency's Representative
Merit Employee Relations Board
Katy K. Woo, Chairperson
Robert Burns, Vice Chairperson
Walter Bowers, Member
Dallas Green, Member