

**BEFORE THE MERIT EMPLOYEE RELATIONS BOARD  
OF THE STATE OF DELAWARE**

**DEBORAH L. WALBERT,** )  
 )  
 Employee/Grievant, )  
 )  
 v. )  
 )  
**JUSTICE OF THE PEACE COURT,** )  
 )  
 Employer/Respondent. )

**DOCKET No. 11-04-510**  
  
**PUBLIC**  
**DECISION AND ORDER**

After due notice of time and place, this matter came to a hearing before the Merit Employee Relations Board (the Board) at 9:00 a.m. on October 6, 2011 at the Public Service Commission, Canon Building, 861 Silver Lake Boulevard, Dover, DE 19904.

**BEFORE** Martha K. Austin, Chair, John F. Schmutz, Victoria D. Cairns, Dr. Jacqueline Jenkins, and Paul R. Houck, Members, a quorum of the Board under 29 *Del. C.* §5908(a).

**APPEARANCES**

W. Michael Tupman  
Deputy Attorney General  
Legal Counsel to the Board

Deborah L. Murray-Sheppard  
Board Administrator

Deborah L. Walbert  
Employee/Grievant *pro se*

Kevin R. Slattery  
Deputy Attorney General  
on behalf of the Justice of the  
Peace Court

## **BRIEF SUMMARY OF THE EVIDENCE**

The Board incorporates by reference the Brief Summary of the Evidence in the Board's Non-Public Decision and Order.

## **FINDINGS OF FACT**

The Board incorporates by reference the Findings of Fact in the Board's Non-Public Decision and Order.

## **CONCLUSIONS OF LAW**

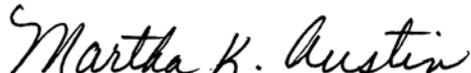
Merit Rule 12.1 provides:

**Employees shall be held accountable for their conduct. Disciplinary measures up to and including dismissal shall be taken only for just cause. "Just cause" means that 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.**

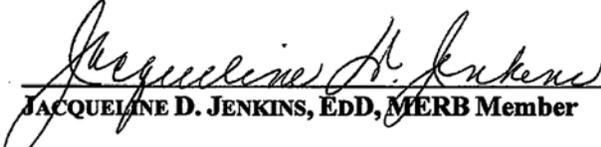
The Board concludes as a matter of law that the Court had just cause to terminate the employee/grievant, Deborah L. Walbert (Walbert)..

**ORDER**

It is this **18<sup>th</sup>** day of October, 2011, by a vote of 4-0 (Board Member Houck abstaining), the Decision and Order of the Board to deny Walbert's appeal.

  
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**MARTHA K. AUSTIN, MERB Chairwoman**

  
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**JOHN F. SCHMUTZ, MERB Member**

  
\_\_\_\_\_  
**JACQUELINE D. JENKINS, EDD, MERB Member**

  
\_\_\_\_\_  
**VICTORIA D. CAIRNS, MERB Member**

## APPEAL RIGHTS

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

29 *Del. C.* §10142 provides:

(a) Any party against whom a case decision has been decided may appeal such decision to the Court.

(b) The appeal shall be filed within 30 days of the day the notice of the decision was mailed.

(c) The appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it shall remand the case to the agency for further proceedings on the record.

(d) The court, when factual determinations are at issue, shall take due account of the experience and specialized competence of the agency and of the purposes of the basic law under which the agency has acted. The Court's review, in the absence of actual fraud, shall be limited to a determination of whether the agency's decision was supported by substantial evidence on the record before the agency.

Mailing date: **October 18,** 2011

Distribution:

Original: File

Copies: Grievant

Agency's Representative

Board Counsel